

Recollections of a lifetime, by John Goode of Virginia.

John Goode

RECOLLECTIONS OF A LIFETIME BY JOHN GOODE OF VIRGINIA

LC

NEW YORK AND WASHINGTON THE NEALE PUBLISHING COMPANY 1906

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Affectionately Dedicated to the Memory of My Beloved Wife, and Mother, to Whom, Under a Kind Providence, I Feel Indebted for All that I Have Accomplished in Life; and Also to the Memory of My Noble Son, Richard Urquhart Goode, Who Was Suddenly Cut Off in the Prime of His Manhood and in the Midst of His Usefulness to His Family, His Country and His Church.

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RECOLLECTIONS OF A LIFETIME BY JOHN GOODE OF VIRGINIA

Chapter I Date of birth—Ancestry—Early history of Bedford County—Its contribution to the Washington Monument—Great lawyers from Bedford—Especially distinguished for fine preachers—Sketches of some of the most prominent—Early education and school incidents.

Having long since passed the limit of human existence allotted by the Psalmist, I propose to write my recollections of the times in which I have lived and of some of the more prominent men whom I have personally known.

I am urged to this course by many valued friends whose judgment is entitled to the highest respect.

It is not my purpose to write an autobiography, as I have not the vanity to suppose that the reading public would be particularly interested in my personal career. I shall therefore avoid as far as possible the use of the personal pronoun; but in making my bow to the public I have thought that it might not be inappropriate to present a brief personal sketch by way of introduction.

I am a descendant of that John Goode who emigrated from England prior to 1660, and settled at a place called Whitby, just below Richmond on the James River. My kinsman, G. Brown Goode, a gifted and learned scholar, in his remarkable book called the "Virginia Cousins," has given a graphic account of that early settler and his numerous descendants. This book is well worthy of a careful perusal by all who take an interest in the study of family history.

I was born in the county of Bedford, Virginia, on the 27th of May, 1829. My father was John Goode, a farmer and a soldier of the war of 1812. My mother was Ann M. Leftwich, a daughter of John and Sallie Walton Leftwich 14 and granddaughter of General Joel Leftwich. They had thirteen children. Five sons and a son-in-law volunteered their services

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to the State in the beginning of the Civil War and three of them sacrificed their lives in her defense.

My oldest brother, Edmund Goode, graduated from the Virginia Military Institute in 1846. He entered as a State Cadet in 1843, and during the last year of his service he acted as captain of the Corps of Cadets. After teaching school for two years, in accordance with the requirements of the law, he devoted himself to the avocation of a farmer, which was most congenial to his tastes. In the commencement of the war he was appointed adjutant of the Twenty-eighth Virginia Regiment, and in that capacity took part in the first battle of Manassas. In the fall of 1861 he was appointed colonel of the Fifty-eighth Virginia Regiment and ordered to the mountains of Virginia west of Staunton, where he remained in camp during the winter, and contracted the disease from which he died in March, 1862, universally lamented as a modest, quiet gentleman and a gallant and chivalrous soldier.

My brother, William O. Goode, an exceedingly bright and clever young man, possessed of rare gifts as a humorist, died soon after the war from a disease contracted in a Federal prison.

My youngest brother, Granville Breckinridge Goode, was killed in the battle of the Wilderness in May, 1864. He was a noble, gallant youth, and was publicly complimented for gallantry in action at the battle of Fredericksburg by Major William Pegram, commonly known as the "Fighting Major." He was buried on the field where he fell and we were never able to recover his remains. My mother did not long survive him. She could not bear the idea of her baby boy being left in the Wilderness, far from the home of his youth, and she gradually pined away until she died.

My paternal grandfather was Edmund Goode, a brave soldier in the War of the Revolution. His widow lived to a great old age, but for many years before her death she was confined to her bed by an incurable disease. She was a consistent 15 and devoted member of Timber Ridge Baptist Church near her home, and I remember that when I was a small

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boy she frequently called me to her bed-side and said, "Now, my son, you must go to church Sunday morning, listen attentively to the minister, come back and tell me his text and repeat as much of his sermon as you can remember, and I will give you as much pie as you can eat." With such a treat in prospect it may readily be imagined that I was a most attentive listener. I have never forgotten the texts of Scripture thus laid up in my youthful memory, and I attribute my knowledge of the Bible in large degree to the promise of pie thus held out to me by my sainted grandmother. It may be proper to add, that while I was brought up in the Episcopal Church, and attended regularly with my mother the services at St Stephen's Church in the neighborhood, I was always fond of listening to good preachers of other denominations and never failed to attend upon their ministry whenever an opportunity was presented.

My maternal great-grandfather was Joel Leftwich, who fought during the Revolution at the battles of Brandywine, Trenton, Germantown, Camden, and Guilford Court House. He was one of that heroic band who, in the severe winter of 1778, without pay, without clothing, and without food, marked the snows of Valley Forge with the blood that trickled from their feet.

When the American army was almost destroyed by privation and hunger, and when Washington's great heart was made to bleed on account of the sufferings of his men, he uttered those memorable words which will live forever, "Leave me but a banner to place upon the mountains of West Augusta and I will rally around me men who will lift our bleeding country from the dust and set her free!" At the battle of Guilford Court House my great-grandfather was seriously wounded, and sent home on a furlough. It is said that after he had sufficiently recovered to return to his post, his neighbors tendered to him a complimentary party. All the young people in the neighborhood were present, and among them his fiancée, Nancy Turner. Just before the company dispersed he said publicly to the young men, "I am 16 going back to the army to-morrow, and I hereby give you notice that Nancy Turner, sitting in the chimney-corner there, is my sweetheart; and while I am gone if any fellow tries to take her away from me, I will thrash him upon my return." The tradition

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is that Nancy heard his declaration and blushed very deeply, but she did not deny the soft impeachment.

In the war of 1812 Joel Leftwich was a brigadier-general, and in that capacity rendered conspicuous service. He commanded the Virginia troops at the battle of Fort Meigs and received favorable mention in the official report of General William Henry Harrison. After the termination of the war of 1812 he was made major-general of the militia, was elected sheriff, and frequently represented the county in the General Assembly of Virginia. As a small boy I remember listening with thrilling interest to the story of his campaigns during the Revolution and the war of 1812. He died at the house of his kinsman, Major William Leftwich, and, although very young, I was called upon to perform an important service in connection with his funeral. Major Leftwich sent me on horse-back to Lynchburg with a letter addressed to General Rodes, the father of the late General Robert Rodes of the Confederate Army, informing him of the death of General Leftwich and requesting him, as brigadier-general of the militia in that district, to call out the troops for a military funeral. No envoy extraordinary or minister plenipotentiary at any foreign Court was ever prouder of his mission, and I proceeded at once to Lynchburg in its execution. The military funeral was held. There was a large attendance of soldiers and citizens to do honor to the memory of the patriotic and distinguished dead. He was buried on the Turn-pike road leading from Lynchburg to Bedford City, near Otter Bridge, in the family burying-ground. There he sleeps his last sleep with no monumental shaft to mark the spot where he lies. But I am happy to know that the Daughters of the American Revolution, ever foremost in every patriotic work, have recently inaugurated a movement to erect a monument to his memory.

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The county of Bedford, in which I was born and reared, was, by an act of the General Assembly of Virginia, passed in November, 1753, in the 27th year of the reign of King George II, formed by dividing the county of Lunenburg.

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The minutes of the proceedings in the county court begun on May 27, 1754, show that the gentlemen justices composing the court met under a *dedimus potestatem* from His Majesty King George II.

The county has been in existence more than a century and a half. It has long been distinguished for the fertility of its soil, the salubrity of its climate, the magnificence of its scenery, the patriotism of its men, and the loveliness of its women. Its sons were among the foremost of those who fought the battles of the Revolution and the war of 1812. In the late war between the States it was among the first to respond to the call of the Governor for volunteers, and contributed to the armies of the Confederacy nearly 4,000 men.

It is situated at the foot of the Blue Ridge Mountains, in the midst of which the far famed Peaks of Otter stand like two solitary sentinels.

In the Presidential campaign of 1844 the Whigs of Bedford, who were ardently and devotedly attached to the political fortunes of their great leader, determined to erect a pole and unfurl a banner from the top of the peaks. I was reared in the Democratic faith, but as a small boy, fifteen years of age, I witnessed the ceremony and heard the address of Gen. Leslie Combs of Kentucky, the orator of the day, which still lingers in my memory. Being introduced by the chairman of the meeting, he stood a moment and surveyed the vast audience before he uttered a word. He then reached out, plucked a leaf from an overhanging limb, made a cup with it, stooped down and filled it with rain water which had fallen the night before and was collected in a little hole on the top of the rock, and commenced his address as follows:

"Fellow citizens: Standing here this morning on the topmost rock of the far famed Peaks of Otter, I propose with this pure rain water, which has just fallen from the heavens, to drink the health of Harry Clay, that fearless Tribune of the people and born leader of men."

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This was a bold exordium, but it was received with shouts of applause, and being a fervid, gifted orator, he held his audience spellbound throughout his long and impassioned address.

In this connection I am reminded of another incident. Before the completion of the Washington Monument, and while it was undergoing construction, the patriotic citizens of Bedford determined to make a substantial contribution to it. They brought down from the summit of the peaks a huge stone, had it properly dressed by stone cutters, and sent it to the city of Washington to become a part of the monument.

Before it was sent a public meeting was called in the courthouse, at which patriotic addresses were delivered and a committee was appointed to prepare a suitable inscription. Having just returned from college, I had the honor to be chosen as one of the committee. The other two members were Mr. Joseph Wilson, the venerable clerk of the Circuit Court, and Mr. Edward C. Burks, an accomplished lawyer, who afterwards became distinguished as a member of the Supreme Court of Appeals of Virginia. When the committee met for final action, Mr. Wilson and Mr. Burks read their contributions and I read mine. They both said promptly, "We will adopt Mr. Goode's"; but not being willing to sail under false colors, I said, "Gentlemen, I feel constrained to say that this is not my production, but it has been kindly furnished to me by the accomplished daughter of Mr. Wilson." The inscription reads as follows:

"From the summit of Otter, Virginia's loftiest peak, To crown the monument To Virginia's noblest son."

When a small boy I often heard my father and others speak of the traditional fame of two great Bedford lawyers, Christopher Clark and Callohill Mennis, who were said to be almost omnipotent before the juries of the county. The latter was cut off in the midst of his usefulness and the maturity of his powers, while serving as one of the delegates from the county of Bedford in the Virginia Constitutional 19 Convention of 1829–30. During my day

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I have been personally acquainted with many able, learned, and distinguished members of the local bar of Bedford, among whom I may mention John F. Sale, Gustavus A. Wingfield, James F. Johnson, E. C. Burks, William F. Gordon, Nathaniel H. Campbell, William L. Goggin, John O. L. Goggin, and others. The courts of Bedford were also regularly attended by many able and distinguished members of the Lynchburg bar, to whom I have often listened as a boy with admiration and delight. Among the most prominent of these were William Daniel, Jr., afterwards a member of the Supreme Court of Appeals, and the father of John W. Daniel, our gifted and eloquent Senator; Charles L. Mosby, known in his day as the Addison of the bar on account of his scholarly attainments and the elegance of his diction; Chiswell Dabney, universally recognized as a gentleman of the old school; James Garland, who wielded in debate the ponderous battle-axe of Richard and the keen scimitar of Saladin; Charles R. Slaughter, a walking encyclopedia of the law; Robert J. Davis, distinguished for his modesty and learning; John M. Speed, the courtly gentleman and eloquent advocate.

Perhaps the county of Bedford has been more celebrated for the production of great preachers than for anything else. Bishop Cobbs and Bishop Otey, of the Episcopal Church; Bishop Early, of the Methodist Church; James Turner and John H. Rice, of the Presbyterian Church; Daniel Witt, Jesse Witt, Dr. J. B. Jeter, and Dr. W. E. Hatcher, of the Baptist Church, were all born in Bedford and reared under the inspiring influences of her beautiful mountains. Bishop Cobbs in early life lived on the farm afterwards owned by my father, and there are still standing in the yard attached to the dwelling house several locust trees that were planted by him. When I was an infant he baptized me at old St. James Church in the neighborhood. He was a frequent visitor at our home and I remember well his saintly appearance and Godly conversation. He and my father were reared on adjoining farms and grew up as boys together. I have often heard, the latter say that "Nick" Cobbs, as he called him, was born a Christian, that in all their intercourse he never heard him utter an immoral jest or make use of any expression that could not be repeated in the presence of ladies. Truly may it be said in this instance that "the child was father

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of the man.” In the days of his early manhood he was engaged as a teacher at the New London Academy, and it was his constant habit to go out and perform missionary work on Saturdays and Sundays. Wherever the Episcopal Church has gained a footing between Lynchburg and Bristol, it has been due in a great measure to the untiring and pious efforts of this man of God. He died in Montgomery, Alabama, in 1861, but his heart never ceased to yearn for his native hills. He has been often heard to say that when he passed away he desired to be buried beneath the shadow of the beautiful Blue Ridge Mountains in sight of the Peaks of Otter.

Rev. James Turner, of the Presbyterian Church, was not only a great pulpit orator, but a man of remarkable commonsense. On one occasion, in the month of October, he attended his church on Sunday morning as usual for the purpose of preaching, but after making the opening prayer and after the introductory hymn was sung, he arose in the pulpit and astonished his congregation by saying, “Brethren, I think I sniff frost in the air, and my opinion is that we had all better go home and save our tobacco crops.”

Bishop John Early was one of the strong pillars of the Methodist Church in his day. On one occasion he had an appointment to preach at Nazareth Meeting-house in Bedford. After the congregation had assembled, and he had announced his text, some young men who occupied the outside seats arose and left the church. He looked at them as they retired, and said, “I will wait until the chaff blows off and then I will preach to the wheat.” On another occasion, when he was conducting a revival in the same church, an elegantly dressed and fashionable young lady was so moved by his exhortations that she got up from her seat and went to the mourner's bench to be prayed for. Her brother, who was standing in the church-yard engaged in conversation, as soon as he heard of the incident, deliberately went into the church, walked down the aisle, took his sister by the arm as she knelt by the altar, and escorted her out of the church. 21 The preacher stood and looked at them as they retired, and then said to the congregation, “I hope a legion of devils may take that young man and shake him over the bottomless pit.” He did not believe it to be always a Christian duty to submit to insult or when smitten on one cheek to turn the other,

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as is evidenced by the fact that when he was once insulted on the streets of Lynchburg he deliberately took off his coat, threw it down on the pavement, and exclaimed, "Lie there, Methodist, until I whip this scoundrel!" He was not only a great preacher, but he was a man of affairs, and was eminently practical. He always took a deep and lively interest in public matters, particularly those relating to internal improvements. In politics he was an ardent Whig, and was once nominated for Congress in his district; but when the committee called to notify him of the action of the convention, he heard them patiently and replied, "Gentlemen, I thank you, but I have a commission from a Higher Power."

Drs. Jeter and Hatcher were born and reared in the same neighborhood on the north side of Bedford. They were great preachers, and I have heard the former say that in the days of his early manhood he studied divinity between the plough handles in Bedford.

When I was a small boy I attended the Old Field schools in the neighborhood. In those days the teacher made free use of the rod and the strictest discipline was observed. A celebrated teacher named Flood usually commenced the exercises of the day by whipping all the pupils who were late in arriving at the school-room. One morning a young girl, nearly grown, being a few minutes behind time, was called up for punishment, when a gallant, chivalrous young fellow stepped forward and said, "Mr. Flood, I will take that whipping," whereupon the old teacher promptly accepted him as a substitute and administered to him an unmerciful whipping. It is gratifying to know that such a barbarous custom in this more advanced age has fallen into "innocuous desuetude," and that the teachers in our common schools no longer exercise such a delegated power. The better opinion seems to be that none but the parents have the right to use the rod in the correction of their own children.

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It was also customary in that day for the boys in the Old Field schools to turn out the teachers whenever they wanted holiday. Being encouraged by the smiles of the girls, they nailed down the windows, piled the benches up against the doors, and when the teacher

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appeared outside, they demanded and obtained a week's holiday before they would admit him. The teacher would make a show of opposition, then capitulate.

The New London Academy, which I afterwards attended, one of the oldest educational institutions in the land, has long been recognized as an exceedingly valuable seat of learning. It is more than a century old, and is located near New London, where may still be seen the foundations of the old court-house in which Patrick Henry brought ridicule upon the name of Johnny Hook and laughed out of court his honest claim to be paid for his oxen which had been impressed and converted into beef for the benefit of the American soldiers during the Revolution. Many men of distinction have been educated at the New London Academy, and in its long list of students whose lives have been an ornament and a blessing to their State and country may be found such names as William E. Peters and Edward C. Burks. Mr. Peters is a distinguished graduate of Emory & Henry College and has lately retired from the chair of Latin at the University of Virginia, which he filled for many years with conspicuous ability, and in which he won an enviable reputation as one of the most accomplished Latin scholars in the land. Mr. Burks was well known as a learned and accomplished lawyer. Few men of his day have been so much distinguished for the extent, variety and accuracy of their legal learning. He was an omnivorous reader and devoured a new law book as other men would a novel. By his opinions delivered while a member of the Supreme Court he has erected a monument to his memory which will be more lasting than brass.

In the fall of 1846 I entered as a student the College of Emory & Henry, an institution which, not so pretentious perhaps as some others, has accomplished a great work in the sacred cause of education. Its students have been especially distinguished, as debaters and orators. This is perhaps to be attributed to the existence of the Hermesian and Calliopean Literary Societies, in which weekly debates are held, and to the establishment of an oratorical prize medal by Hon. Wyndham Robertson, a public-spirited and patriotic citizen. This medal is more coveted by the students than any other honor bestowed at the

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college, and the result is that extraordinary attention is given to elocution and to excellence in debate.

When I entered Emory & Henry College, the faculty consisted of Charles Collins, President and Professor of Moral and Mental Science; Ephraim E. Wiley, Professor of Ancient Languages; Edmond Longley, Professor of Mathematics and Modern Languages, and James A. Davis, Tutor. These were all scholarly men and filled their respective chairs ably and acceptably. While I was a student there I attended one day a public meeting at Glade Springs in the immediate neighborhood of the college which had been called for the purpose of raising volunteers for the Mexican war. The principal speakers, as I now remember, were Arthur C. Cummings and John B. Floyd. The former afterwards rendered conspicuous service in the war with Mexico and in the war between the States. It is said that at the first battle of Manassas his regiment, as a part of the famous Stonewall Brigade, gallantly withstood the repeated charges of the enemy and aided very materially in rolling back the tide of battle on that eventful day.

John B. Floyd, during his brilliant career, filled many positions of honor and of trust. He was a member of the General Assembly of Virginia, Governor of the State, Secretary of War under Mr. Buchanan's Administration, and major-general of Volunteers. On the occasion to which I refer, I remember that in urging the young men to volunteer, he told them there was a Divinity that shaped their ends and that if they were born to be slain on the plains of Mexico they would never be drowned in the Holston.

Chapter II The Lexington Law School—John W. Brockenbrough, its founder—His fame as a lawyer and advocate—Appointed judge by President Polk—He represents Virginia in the Peace Conference—Delegate to the Provisional Congress at Montgomery—The preparation of his lectures.

In the winters of 1849–50 and 1850–51 I attended the Lexington Law School, which was conducted by that noble gentleman and profound jurist, Hon. John W. Brockenbrough.

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As my preceptor in the law, I loved and honored him while living and cherish his memory now that he is dead. He was born on the 23d of December, 1806, in the old county of Hanover, around which cluster so many historic associations as the birth-place of patriots, heroes, and statesmen. He was the son of William Brockenbrough, a learned judge of the Circuit Court, the General Court, and the Court of Appeals; so that he was a lawyer by inheritance. His early youth was spent amid scenes that were fragrant with the memory of Patrick Henry, the inspired orator of the American Revolution, whose heaven-born eloquence first kindled the flame of liberty in the breasts of the Colonists, and of Henry Clay, the great Commoner, who was, perhaps, more idolized by his party than any public man who has ever lived in this country. He was educated at the College of William and Mary and the University of Virginia, two renowned institutions of learning which point to-day with maternal pride and tenderness to a long line of illustrious alumni who, in their day and generation, have illustrated the glory of American institutions and shed enduring luster upon the American name.

After studying law at Winchester, under the instruction of that gifted, learned, and profound jurist, Henry St. George Tucker, Judge Brockenbrough was admitted to the bar at Hanover, and was soon afterward elected Commonwealth's Attorney for that county. In 1834 he removed to the county of Rockbridge and located in the town of Lexington. He came unheralded and unknown. He met there, as members of the local bar, such able and learned lawyers as John Letcher, Samuel McDowell Moore, David E. Moore, John T. Anderson, Frank Anderson, Charles B. Dorman, Wm. Doyle, James D. Davidson, James B. Dorman; and from the Staunton bar, Alexander H. H. Stuart, Thomas J. Michie, Howe Peyton, Briscoe G. Baldwin, John B. Baldwin, Hugh Sheffey, and others scarcely less distinguished. He soon took conspicuous rank among the leaders. His fame as a learned lawyer and eloquent advocate pervaded the entire community. He was distinguished not only for the precision of his pleadings, the extent and accuracy of his learning, his powerful logic in the discussion of legal propositions, his persuasive eloquence before the juries, but for his unswerving fidelity to his clients, his scrupulous observance of the well-established

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ethics of the profession, the urbanity of his deportment toward the court, and his knightly courtesy to his brethren of the bar.

In 1837 he published two volumes of reports containing the decisions of Chief Justice Marshall in the Circuit Court of the United States for the District of Virginia and North Carolina from 1802 to 1833. Accompanying the reports of the decisions in many of the cases, are to be found most valuable and exhaustive notes. Being thus equipped in every respect to dignify and adorn the judicial station, he was appointed by President Polk, in 1845, judge of the District Court of the United States for the Western District of Virginia, in which capacity he served most acceptably until the commencement of the war in 1861, when he was appointed by the Confederate authorities as judge for the same district. No higher encomium could be passed upon him than to recall the fact that during his long judicial career, extending over a period of nearly a quarter of a century, very few appeals were taken from his decisions, and in no single instance was he ever reversed by the Appellate Court. Perhaps his most distinguishing characteristic on the bench was his strong sense of justice.

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In February, 1861, Judge Brockenbrough was sent with others to represent Virginia in the Peace Conference at Washington. After the failure of that conference, and the dissolution of the Union, he did not hesitate to unite his fortunes with those of the Confederacy. He had been ardently and devotedly attached to the Constitutional Union of 1789, because he regarded it as the palladium of the people's liberties and the sheet anchor of their safety. He had devoted to its service many of the best years of his life. But he was a native-born son of Virginia, proud of her traditions and loving every inch of her soil, from her blue mountains down to her blue waves. He had been taught to believe that his paramount allegiance as a citizen was due to her, and he could not find it in his heart to strike a parricidal blow at the breast of the mother that bore him. He promptly resigned his position as United States District Judge and espoused the cause of his people with all the ardor and enthusiasm of his noble and manly nature. In June, 1861, he was elected one of the

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Delegates to represent Virginia in the Provisional Congress of the Confederate States then in session at Montgomery. In that deliberative body, which would compare favorably with the most gifted and distinguished that have ever assembled in this or any other country, he was recognized as one of its most valuable and conservative members.

In 1852 he was elected a member of the Board of Trustees of Washington College as the successor of that gifted orator and accomplished statesman Gov. James McDowell. In 1865 he was chosen Rector of the Board, and in that capacity he rendered a service the importance and value of which it would be impossible to overestimate. By request of the Board, he made a personal visit to Gen. Robert E. Lee in the county of Powhatan, where he was temporarily sojourning, and induced him to accept the Presidency of the College. Ever since the accession of General Lee to the Presidency, this renowned institution has been known as Washington and Lee University, and thus the immortal names of Virginia's two most illustrious sons have been for ever inseparably connected.

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In October, 1849, Judge Brockenbrough met at the hall of the Franklin Society, in the town of Lexington, seven young men who had come from different parts of the State to study law under his guidance and instruction. This was the beginning of the famous Lexington Law School, which continued to grow from year to year in numbers and public favor until 1866, when it was consolidated with Washington and Lee University and became the School of Law and Equity. Judge Brockenbrough continued to teach under the new arrangement until June, 1873, when he tendered his resignation, the Hon. John Randolph Tucker having been, in the mean time, elected Associate Professor. Judge Brockenbrough loved the law as a science. In the preparation of his lectures he was painstaking and industrious. In the discussion of legal principles he was clear, strong, concise, and logical. He believed with Lord Mansfield, that "the law is not voluminous or verbose, but consists in certain well-defined principles illustrated by cases." In his method of teaching it was his constant aim to impress upon his classes the paramount importance of thoroughly mastering the fundamental principles of the law. As he said, it was his desire to generate

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in the mind of the student a taste for the study of the law as an enlarged and rational system of jurisprudence, and to imbue him with the philosophical spirit which pervades it.

Chapter III Admission to the bar—Elected to the Virginia legislature—Story of Mr. Burwell and Dr. Tate—Chosen as Presidential elector—Governor Barbour—The campaign of 1855—“Weehawk” and “Waxey”—Gubernatorial campaign of 1859—A week in Washington in winter of 1860–61—R. M. T. Hunter and James M. Mason—Virginia's strong delegation in 36th Congress.

My license to practise law having been signed by Judge John J. Allen, President of the Virginia Court of Appeals, and by two Circuit Judges, Estill and Taliaferro, I was admitted to the bar at Bedford in April, 1851. In November of that year I was elected a member of the Virginia legislature which met on the first day of January, 1852, to enact the necessary legislation for putting into operation the new constitution of 1851. My colleagues were Samuel T. Brown of the Senate and Samuel G. Davis of the House of Delegates. The Whigs had always carried Bedford by a large majority and great surprise was expressed throughout the State when the result of the election was announced. It was largely due to the fact that the young men who had become voters for the first time, under the new constitution, as a general rule voted the Democratic ticket because they believed that they were indebted to the Democratic party in the State for the privilege of suffrage.

William M. Burwell, a most accomplished gentleman, was the leading Whig candidate, and I shall never forget his courtesy and kindness to me during the campaign. We made speeches in opposition to each other in every neighborhood of the county, and although he was an experienced statesman, thoroughly informed on all the questions of the day, and I was wofully ignorant as to many of them, he treated me with the greatest consideration and was among the first to offer his congratulations upon my election. He was an ardent advocate of the great cause of internal improvement 29 in the State, and was for a long time the recognized leader of the Internal Improvement party in the legislature. He was the patron in the House of Delegates of the bill to incorporate the

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Virginia and Tennessee Railroad Company, now an important link in the great Norfolk and Western Railroad, and exerted his acknowledged talents in season and out of season to secure its passage.

An amusing story is told of Mr. Burwell and Dr. Tate, a member from the county of Smythe, in connection with the passage of that bill. After an animated debate, and the vote was about to be taken, it was ascertained that it would be exceedingly close and the fate of the bill was in great doubt. Under these circumstances, Mr. Burwell and Dr. Tate held a hurried conference on the floor, and it was agreed that in order to bring about an adjournment so as to afford time for further canvassing, Dr. Tate would suddenly faint at his seat. He did faint, to all appearances. Several physicians were summoned to his aid, who bled him on the floor, and the House adjourned in great confusion. Before the meeting on the next morning, several additional votes were obtained and the bill was passed. Mr. Burwell ever afterwards jokingly referred to Dr. Tate as one who had bled and was willing to die in the cause.

Joseph Johnson was elected the first Governor under the constitution of 1851. The General Assembly elected to put that constitution into effect assembled on the 12th day of January, 1852, and adjourned *sine die* on the 11th of April, 1853. Oscar M. Crutchfield, a noble gentleman of the old school, was elected Speaker of the House of Delegates, and George Wythe Mumford, an intense Virginian, and a man of rare literary attainments, was elected Clerk. He was particularly kind to the younger members, and was always ready to assist them in the preparation of their bills. There were many members belonging to that House who were men of high distinction and large experience in public affairs, among whom I may mention Conway Robinson, Alexander Rives, Fleming B. Miller, Alexander Jones, James Barbour, Robert E. Scott, Benjamin W. Jackson, Joseph Segar, William O. Goode, Samuel Price, W. B. Taliaferro, John M. Speed, 30 Walter D. Leake, John Echols, Charles W. Russell, John R. Kilby, George T. Yerby, Thomas Wallace, and William L. Jackson.

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During my service in the Virginia General Assembly of 1852 I met for the first time that eminent Presbyterian divine, Rev. Doctor Moses D. Hoge, one of the most eloquent and gifted men of his day, who was pastor of his church in the city of Richmond more than half a century, and died lamented and beloved, not only by his own people, but by all other Christian denominations in the land. While I was a member of the House of Representatives I heard him preach one night at the New York Avenue Presbyterian Church in the city of Washington. For one hour and a half he discoursed upon the evidences of Christianity, and while he did not call Mr. Ingersoll's name, it was evident that he intended his sermon as a reply to the peculiar tenets of the great agnostic. The audience was powerfully impressed and listened with rapt attention to every word that fell from his eloquent lips. The next morning I met him in the corridors of the Capitol and, after the usual salutation, I said to him, "Doctor, I heard a beautiful compliment paid to you last night, but I suppose you are indifferent to such things." "What was it?" he inquired. "Well," I said, "coming out of the church last night, after your sermon, I heard one member of Congress say to another, 'I have heard all the great preachers in this country and that is the greatest man I ever heard in the pulpit.'" He was evidently very much pleased and, placing his hand on my shoulder, said, "Mr. Goode, when any man, even though he be a preacher, tells you he is indifferent to a compliment like that, don't you believe him. I am glad you told me, it encourages me in my work and I feel that I am not living in vain."

During the same winter I met for the first time John Y. Mason, one of Virginia's most illustrious sons. Few men have filled a larger space in the public eye or occupied so many important and responsible positions of honor and of trust. He was United States District Judge, Attorney-General of the United States, Secretary of the Navy, Minister to France, President of the Virginia Constitutional Convention 31 of 1851, and President of the James River and Kanawha Canal Company. There was some complaint about the administration of the affairs of that company and an investigation was ordered by the House of Delegates. I had the honor to be appointed a member of the committee. On the morning that had been agreed upon for our visit to the canal and an investigation of

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its management, Judge Mason invited us all to his house to breakfast and had carriages provided for our accommodation. He was very magnetic in his manner and made himself exceedingly agreeable. The committee, after investigation, unanimously agreed upon a report in which they exonerated the president from all blame. Some of the more cynical intimated that the Judge, by his hospitable treatment and charming manners, had completely mesmerized the committee, but it is due to the truth of history to say that the complaints against his management of the affairs of the company were found to be entirely groundless.

I also had the pleasure, during the same winter, of hearing, Patti sing to a crowded house in Richmond. Of course I was charmed with the bird-like tones of her remarkable voice and its wonderful flexibility. But in after years I heard her sing at the same time with Scalchi and I must be permitted to say that I have never been so much impressed and moved by any living voice as by that of Scalchi. Its deep, rich, sympathetic tones still linger in my memory.

In the same winter I had an opportunity to hear Thackeray, the great English novelist, read his famous lecture on the Four Georges. He was venerable in appearance, scholarly in his diction, and pleased his audience exceedingly, notwithstanding the fact that he had the boldness to lecture the Virginia people upon their excessive use of tobacco.

The people of Richmond have always been fond of the legitimate drama and have the reputation of being very critical. However that may be, during the winter to which I have referred I enjoyed the opportunity of hearing in the Lady of Lyons Mrs. Anna Cora Mowatt, who, by her grace of manner and charming elocution, captured one of Richmond's most distinguished citizens. I also had the pleasure of hearing McCready in Macbeth and Forrest in 32 King Lear. Since that day I have witnessed the performances of many noted actors,—Edwin Booth in the Merchant of Venice, Salvini in Othello, and John McCullough in many plays,—but I have never seen any actor who was the equal of Forrest in King Lear, when the old King, driven out into the storm by his unnatural and cruel daughters,

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Goneril and Regan, is made to cry out in agony of spirit and bitterness of woe, "How sharper than a serpent's tooth it is, to have a thankless child." It is said there is nothing in a name, and a rose by any other name would smell as sweet, but Shakespeare, that great master of the human heart, shows by his selection of names that he is of a different opinion. For example, when he wishes to describe a cold, proud, haughty, imperious creature he calls her "Goneril" or "Regan." When he wishes to describe a kind, considerate, tender, affectionate daughter he calls her "Cordelia."

In the Presidential campaign of 1852 I was chosen as elector on the Democratic ticket for our district, and Hon. Alexander Rives was the Whig elector. He was a most eloquent and captivating orator, and as I look back now to that campaign it seems presumptuous that a mere stripling like myself should have had the audacity to meet this Goliath in debate. We had frequent encounters on the hustings. When I reached Albemarle County on the morning of court day (there were no railroads in those days between Bedford and Albemarle), I took a room at the hotel, and it was whispered about on the court green that the Democratic elector had arrived. My room was soon crowded by prominent Democrats of the county, who called to pay their respects and discuss the political situation. Among others who did me the honor to call was the venerable Andrew Stevenson, who had been Speaker of the House of Representatives and Minister to the Court of St. James. While we were engaged in conversation, the dinner bell rang and I invited him to go with me and take dinner. At the dinner table he said, "Mr. Goode, what points will your adversary make to-day?" I replied that I did not know. "What!" he said, "you have met him at Amherst and Bedford and do not yet know what points he will make?" I told him I knew what points he 33 had made on the occasions he had referred to, but did not know that he would make the same on this occasion. "Ah, well," he said, "you may rest assured that his speech will be about the same." He was evidently uneasy as to the outcome of the debate with my distinguished competitor, but when the court-house bell rang at two o'clock he had the goodness to accompany me, sit on the platform, and give me the benefit of his countenance and encouragement. When we reached Orange we were met by an immense

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audience on the court green, and as I have often said, I have never seen anywhere a finer body of men assembled.

While there I heard an amusing story told of Governor Barbour. After he had been Governor of the State and Minister to England, he was persuaded in his old age to come out as a candidate for the House of Delegates. He and his friends thought it would only be necessary for him to signify his willingness to serve the people in that capacity and he would be triumphantly elected. His competitor was a mountaineer unknown to fame named Davis, who made a domiciliary canvass, going from house to house, kissing all the babies, and keeping the calf away while the old woman milked the cow. The Governor remained quietly at home and contented himself with making a single speech at the court-house. In that day the whole vote of the county was cast at the court-house, and it was known at sundown that the Governor was beaten. The news reached his home before he did, and when he arrived, his good Christian wife, who had lived with him many years, met him at the door and said, "Well, my dear, I hear you are beaten; but we have the satisfaction of knowing that you got all the best people." "Plague on the 'best people'!" replied the Governor; "I wanted the most people."

The campaign of 1855 in Virginia was a very exciting one, and attracted the attention of the entire country. The American party, commonly called the Knownothing party, had gained favor in the Northern States, particularly by its advocacy of the doctrine that foreign immigration into this country should be more restricted, and by its opposition to the growing power of the Pope of Rome; but the advancing tide was rolled back when it reached Virginia. Henry A. Wise was the Democratic candidate and Thomas S. Flournoy represented the American or Knownothing party. At Bedford court-house I heard Mr. Wise make a great speech—the greatest, perhaps, on the hustings to which I have ever listened. Certainly it produced more immediate effect. He had just succeeded in procuring a little book containing all the grips, signs, and pass-words of the Knownothing party, and his excoriation of their secret meetings and dark-lantern proceedings was so terrific that the members could not stand the fire, and they left the lodges like rats retreating from a

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burning barn. The speech occupied about three and a half hours in its delivery, and for argument, wit, satire, and lofty eloquence I have never heard it surpassed.

After the meeting adjourned I accompanied Mr. Wise to his hotel. While we were standing on the platform, Daniel K. Foggie, a man celebrated for his wit and humor, came up and requested an introduction. When I introduced him, he took Mr. Wise by the hand, and looking him in the face said, "I shall vote against you, sir, but you will win the race." "Why so?" said Mr. Wise. "Well, you remind me so much of Weehawk," said Mr. Foggie. "Who is Weehawk?" said Mr. Wise, "I never heard of him." "Well," said Mr. Foggie, "I went upon a race field once and they had a horse called 'Waxey' that beat anything that could be brought against him. Finally, one day, they brought out a little, ugly, raw-boned, scrawny thing with his head between his forelegs, and he looked like the witches had been in his mane and tail; but at the tap of the drum his head was up and away he went and beat 'Waxey' out of sight. His name was 'Weehawk,' and when John introduced you to the people this morning, you reminded me so much of 'Weehawk.'"

As a young man I was completely captivated by the matchless eloquence of Mr. Wise. He was the greatest orator I have ever heard except William L. Yancey, of whom it has been said that it would be worth a trip across the continent to hear him pronounce the word "Alabama." When the convention met in the African Church at the city of Richmond, preparatory to the National Democratic Convention 35 held at Charleston in 1860, I supported the resolution offered by General Chapman of Monroe, expressing a preference for Mr. Wise as the Democratic candidate for the Presidency in the ensuing campaign. This resolution was strongly opposed by Patrick Henry Aylett, Beverly B. Douglas, and others, who preferred R. M. T. Hunter as the Democratic candidate; but it would undoubtedly have been adopted but for the masterly tactics of Lewis E. Harvie of Amelia, the leader of the Hunter forces, and a great field marshal in the game of politics.

In the Presidential campaign of 1856 I was again chosen as one of the Democratic electors, and when we met in the city of Richmond to cast the vote of the State for

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Buchanan and Breckinridge, I had the pleasure of attending a banquet given in their honor and of listening to eloquent addresses from many of the Democratic leaders of that day.

In the Gubernatorial campaign of 1859, John Letcher of Rockbridge was the Democratic candidate, and William L. Goggin of Bedford was the Whig candidate. They were both men of distinction who had won their spurs on many hard-fought political fields, and each had served his district in the Congress of the United States. Mr. Letcher was strong and argumentative in debate and always addressed himself to the reason and good sense of his hearers. Mr. Goggin was recognized as one of the most attractive popular speakers in the country. His supply of anecdotes was inexhaustible and he told them with telling effect. On the day of the election he spoke at Richmond, Burkeville, Farmville, Lynchburg, and Liberty. At the latter place he closed his speech by saying, "Good-night, my fellow citizens, I am going home now to kiss the Governor's wife"; but unfortunately he never enjoyed that privilege, as he was beaten by a large majority.

As is well known, the Democratic Convention that met at Charleston in 1860 failed to agree upon the adoption of a platform and the selection of candidates. The party was hopelessly divided. Stephen A. Douglas and Herschel V. Johnson were afterwards nominated to represent one wing and John C. Breckinridge and Joseph Lane were nominated 36 to represent the other. As a States'-Rights Democrat I cordially supported the latter; but both Democratic tickets were defeated by the Republican ticket with Abraham Lincoln and Hannibal Hamlin as the candidates. In the winter of 1860–61 I spent a week in the city of Washington and listened to those exciting debates that occurred in the Senate and House of Representatives. In the Senate I heard Douglas, Seward, Jefferson Davis, and others. John C. Breckinridge was the President of the Senate. He was tall, graceful, and exceedingly handsome. Mr. Davis impressed me as the most graceful and animated speaker in the Senate, and Mr. Douglas as the most logical and powerful. While I was in the city on that occasion, the famous fight occurred on the floor of the House of Representatives between Lawrence M. Keitt of South Carolina and Galusha A. Grow of Pennsylvania. There was, of course, great excitement during the fight, and in

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the midst of the mêlée Mr. Barksdale of Mississippi lost his wig. The secession of seven Southern States soon followed and the Union was dissolved.

No, Feb, 1858

It was during the session of the 36th Congress in the winter of 1860 that I witnessed the proceedings referred to. At that time R. M. T. Hunter and James M. Mason represented Virginia in the Senate of the United States. They occupied a most enviable position, and enjoyed a reputation as able and patriotic statesmen which will not be forgotten when Virginia comes to make up her jewels.

Mr. Hunter was chairman of the Committee on Finance, and in that capacity wielded a powerful influence with his associates. His mind was exceedingly metaphysical in its characteristics, and he was universally regarded as a calm, safe, and philosophical statesman. He had been Speaker of the House of Representatives and was considered very high authority on all questions of parliamentary law. His rulings have been often quoted with approval by members of the Senate and House of Representatives.

Mr. Mason was chairman of the Senate Committee on Foreign Affairs and filled that exalted station most creditably and satisfactorily. He was exceedingly strong and robust in debate and his style was decidedly senatorial. I 37 remember listening to him with great interest and pleasure in the Presidential campaign of 1860. The Democrats of Bedford held a very large meeting on the north side of the county, at which a sumptuous barbecue had been provided and at which Mr. Mason was the principal speaker. He spoke more than two hours in the open air, and while there were no demonstrations of applause, the people listened to his words of wisdom with rapt attention. At the conclusion of his address other speakers occupied the platform and amused the audience with humorous anecdotes which elicited great applause; but years after the meeting I often heard the old farmers in the neighborhood say that Mr. Mason was the kind of a man to whom they delighted to listen, that he paid a compliment to their intelligence by addressing himself to their reason and their understanding and not to their prejudices or passions. They were pleased that

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he spoke to them as he would have spoken on the most august occasion in the Senate of the United States. I am satisfied that it is only by such speaking that the most enduring reputation is to be achieved. The anecdotist may amuse and please his hearers at the time, but he fails to make a lasting impression.

During the 36th Congress Virginia was represented by an exceptionally strong delegation in the House of Representatives, and among them I recall John S. Millson, Thomas S. Bocock, Roger A. Pryor, and Shelton F. Leake. Mr. Millson was one of the most formidable men in debate to whom I have ever listened. He was great in the House, great on the hustings, and great at the bar. Some lawyers like Judge Thurman, believing that every case has its crucial point, hammer upon that and neglect altogether what they consider minor and immaterial matters. But I have often heard Mr. Millson say he did not consider that he had performed his full duty to his client until he had noticed in his address to the jury everything testified to by the witnesses and every point made by the opposing counsel. He said it was impossible for him to know what was passing through the minds of the twelve men sitting in the box before him or how they might be impressed by the argument of his adversary, however sophistical it might appear to him.

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Roger A. Pryor was recognized as one of the most brilliant orators of that day in the House. His style was ornate and classical. His manner was fiery and impetuous. He was especially distinguished in the field of journalism before the war, and after its termination, without any training as a lawyer, he located in the city of New York and in due time came to the front as an eloquent and accomplished advocate. In the celebrated trial of Tilton vs. Beecher he attracted universal attention, and won his spurs in debate with William M. Evarts and other leading members of the New York bar. After several years' practise he was elevated to the bench in that great Metropolis, and by common consent dignified and adorned the high station by his genius and learning.

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Thomas S. Bocock was the nominee of his party for the Speakership in the beginning of the 36th Congress. John Sherman was the Republican nominee. After a long and acrimonious struggle, William Pennington of New Jersey, a new and untried member, was elected on the fortieth ballot. I have never known a more accomplished parliamentarian than Mr. Bocock. He was always ready, and his manner was so pleasing and persuasive that he disarmed opposition. In debate he was argumentative and eloquent. As a wit and humorist he was most delightful. He had a never-failing supply of anecdotes, and when he assumed that role he was perfectly inimitable. One of his amusing stories was the following: There lived in the county of Henry a hard-shell Baptist preacher named Minter, who was a most active and zealous Democrat. He made it a rule always to drop a word in season as he went around among the members of his flock. On one occasion when Mr. Bocock visited the county, he invited Mr. Minter to visit him the following winter in the city of Washington. Contrary to expectations, Mr. Minter came, and when he returned to his people and preached as usual on Sunday morning, he gave a detailed account of his visit. He told how kindly Mr. Bocock had received him, how he had taken him to the Capitol, the White House, the Patent Office, the various Departments, and all the places of interest in Washington. He said, when he was ready to return to his home, Mr. Bocock told him it would never do for him to go back to Henry without going over to Baltimore to hear the great Dr. Fuller, of the Baptist Church, preach. He said Mr. Bocock "writ" him a few lines of introduction, and when he got to Baltimore he found Dr. Fuller in a little building near the church about the size of one of these lawyer's offices here at the court-house. When he showed him what Mr. Bocock had "writ," Dr. Fuller asked him to preach. "Think of it, my brethren, the great Dr. Fuller asked me to preach for him, and I did preach; but I had not been preaching more than three hours before I found the congregation becoming a little restless and I saw they could not stand strong doctrine." What would be thought by a city congregation in this, our day, if the minister should occupy more than three hours in the delivery of his sermon? My observation has been that the congregation generally becomes a little restless if the minister occupies more than twenty minutes.

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Shelton F. Leake was one of the most captivating speakers who ever lived in Virginia. His speeches were made up of argument, eloquence, anecdote, wit and satire, which made them charming and irresistible. As a boy I listened with great pleasure to the debates between Mr. Leake and Joseph K. Irving, a magnificent orator and the candidate of the Whig party for Congress in opposition to Mr. Leake. The people flocked to hear them, and would stand on the court green five or six hours without any signs of weariness. Mr. Leake was one of the most ill-favored men I have ever seen. Apparently he had little or no blood in his veins and he looked like a dead man. It is said that during the war, when the enemy invaded Charlottesville, his wife put a sheet over him, laid him out on the center table in the parlor, and when the soldiers came in searching for treasure, she begged them to be quiet, saying that her husband had just died and her house was then a house of mourning. They noiselessly went to the place where he was lying, pulled down the sheet and took a good look at him. They asked her how long he had been dead, and then, after expressing heartfelt sympathy, they quietly retired. As soon as they had left the town, Mr. Leake put aside the habiliments of the grave and was himself 40 again. He was elected to the 36th Congress as an independent candidate in opposition to Paulus Powell the regular Democratic nominee.

Mr. Powell had represented his district for many years, and was in some respects a remarkable man. He was excessively diffident and never undertook to make a public address, but he was exceedingly handsome and had most engaging manners in private conversation. He was an adroit electioneerer, and as he rode through the country from one end of the district to the other he managed to rally the Democratic clans and bring them to the polls on the day of election. It is said that in riding along a public road, if he saw a citizen approaching, he knew instinctively whether he was a Democrat or a Whig and governed himself accordingly.

Another remarkable representative before the war was Fayette McMullen from the county of Scott. He was entirely uneducated, but was possessed of strong commonsense,

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untiring industry, and an indomitable will. He knew nothing of books, but he had a most retentive memory and never forgot anything he heard. In conversation with others he absorbed readily and assimilated rapidly. As an illustration of his great industry in his political campaigns, the following story is told. It is said that upon one occasion when he was a candidate for re-election to Congress, he heard there was to be a hanging in the county of Scott on a certain day. Knowing that there would be a large gathering of people to witness the performance he determined to be present, and made a forced march across the mountains on horse-back. When he arrived at the place he found about five thousand people assembled, and as he was a member of Congress, he was invited by the sheriff to occupy a privileged seat on the scaffold, which invitation he accepted with alacrity. After all the preliminary arrangements had been made, the sheriff drew the black cap over the face of the condemned man and asked him if he had anything he wished to say. He shook his head and said in the most lugubrious tones, "Nothing, sir; nothing." McMullen, hearing his reply, rose from his seat, advanced to the front and addressed the people as follows: 41 "Fellow citizens, my friend the culprit has kindly consented that I may occupy his time, and I take this opportunity to announce to you that I am again a candidate to represent you in the Congress of the United States."

Chapter IV The Secession Convention of 1861—Its membership—Brief summary of measures and events leading up to secession movement—War not waged to perpetuate slavery—Virginia's efforts to avoid the inevitable break—Speeches of commissioners from Mississippi, Georgia, and South Carolina—Secession ordinance submitted to the people and ratified by them—General Lee's appointment by Governor Letcher—His sublime acceptance—Benjamin H. Hill's matchless eulogy of Lee—My personal recollection of him—Some members of the convention who took up arms for the Confederacy—General Early.

On the 13th of February, 1861, the members of the Virginia Convention, elected in pursuance of the act of the General Assembly passed on January 14th of that year, assembled at the Capitol in Richmond and organized by the election of John Janney as

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president and John L. Eubank as secretary. William L. Goggin and myself were elected to represent the county of Bedford in opposition to James F. Johnson and William C. Mennis. The convention consisted of one hundred and fifty-two members. It was an eminently conservative body of men, very imposing in appearance, and undoubtedly animated by high and patriotic purposes. It embraced in its membership many men of lofty character, profound learning, and large experience in public affairs. The reputation of some of them as orators and statesmen was not confined to the limits of their own State, but was coextensive with the limits of the Union itself. As one of the humblest members of that body, and the only survivor, with one exception, in Virginia, I propose to vindicate the truth of history, so far at least as Virginia is concerned. I shall attempt to prove that the Confederate soldiers who now sleep in silent graves all over the South were not rebels or traitors, but that the cause for which they fought and died was the cause of constitutional Government and of civil liberty. I feel that I owe this service to the memory of the dead and to the cause of truth.

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More than forty years have now elapsed since the flag of the young Confederacy went down in disaster and defeat at Appomattox Court House. On the morning of the 9th of April, 1865, Gen. Robert E. Lee and his heroic men, after having fought to the point of complete exhaustion, surrendered to overwhelming numbers and furled forever that stainless banner which they had so long followed with uplifted brow and with unfaltering step. The seceding States have long since been re-admitted into the Union and to representation in Congress. All the hates and animosities growing out of the war between the States have been, as we trust, "forever in the deep bosom of the ocean buried." The flag of our common country, as the proud ensign of the Republic, now floats on every sea and blazes in every clime.

When the United States were recently involved in war with Spain and the President called for volunteers, the men of the South responded with as much alacrity as the men of the North. Side by side they entered the "imminent deadly breach." Side by side they emerged

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from the smoke of battle. Side by side they charged up the bloody heights of San Juan and planted the flag of our common country upon the ramparts of the enemy. It would therefore be a work of supererogation to affirm that when the Confederates laid down their arms and professed to renew their allegiance to the Union, they made no mental reservation but acted in good faith and meant what they said. But there is no incompatibility whatever between loyalty to the restored Union and loyalty to the Confederate dead.

While we stand ready to perform faithfully and conscientiously all the duties of American citizenship, we are not yet prepared to write with our own hands the word "traitor" upon the brow of any Confederate living or upon the grave of any Confederate dead. Let others think as they may, but as for me, I stand prepared to maintain with my last breath that the cause in which our martyred heroes fell was as just and righteous a cause as ever a warrior drew a blade in. If Pericles could pronounce a noble funeral oration over those of his countrymen who fell in the first year of the Peloponnesian war, if Edward Everett could indulge his stately rhetoric ⁴⁴ in eulogizing those of his countrymen who sacrificed their lives in defense of the Union, why shall not we hold forever in grateful and affectionate remembrance the virtues and the heroism of those who for four long years encountered without a murmur the hardships of the march, the privations of the camp, and the perils of the field in defense of home and of native land?

Since the formation of the Federal Government there had been conflicting opinions as to the nature and character of its complex system. On the one hand it was maintained that the body politic known as the United States of America was a National consolidated Government representing all the people in the aggregate; that all the people had united and formed one political society bound together in one National Government in which ultimate sovereignty resided and to which the paramount allegiance of the citizen was due. On the other hand, it was maintained that the Federal Constitution was formed by the States in their Sovereign capacity; that the government created by it was one of well-defined and limited powers; that it could exercise no power not expressly delegated or necessarily implied; that the powers not delegated had been reserved to the States

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respectively or to the people; and that the States, in entering into the compact of Union, had not surrendered their sovereignty as free, independent commonwealths; that ultimate sovereignty resided in them and that the paramount allegiance of every citizen was due to his own State. These differences of opinion were radical. After they had been stoutly maintained by their respective champions for more than half a century upon the arena of debate, and after the argument had been exhausted, they were finally submitted to the arbitrament of the sword as the last resort.

It is a great mistake to suppose that, so far, at least, as Virginia is concerned, the war between the States was waged for the purpose of perpetuating African slavery. While she was a colony she protested from time to time against any increase in the number of slaves by direct importation, and enacted many laws for the prevention of the slave trade which were vetoed by the sovereign power of England. When the 45 Federal Constitution was formed in 1787 the slave trade was permitted to continue until 1808, against her earnest protest and remonstrance, by a combination between some of the New England States and some of the Cotton States. Many of her wisest statesmen and most prominent citizens were opposed to the perpetuation of slavery. As early as 1814, Mr. Jefferson, in correspondence with a friend, urged the policy of emancipation. It is well known that Mr. Mason, at an early period in the history of the State, made known his opposition to slavery. In 1832 resolutions proposing a scheme of gradual emancipation were earnestly debated in the General Assembly and strongly favored by many of the foremost men of the Commonwealth. Our great military commander emancipated all the slaves under his control, and is reported to have said that if he owned all the four millions of slaves at the South, he would freely surrender them all for the preservation of the Union.

Stonewall Jackson owned but one slave, a boy whom he purchased at his own request. A large majority of the brave volunteers who followed the flag of the Confederacy from the commencement to the close of the war, never owned a slave and had no personal interest whatever in the peculiar institution. As a striking illustration of this fact, I will relate in this connection an incident that occurred in my own personal experience. While I was

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a candidate for re-election to the Confederate Congress in the spring of 1863, and while riding on horse-back from the county of Patrick to the county of Carroll, I was overtaken by the night in a deep body of woodland and in a strange country. Looking far up on the mountainside, I discovered a light, and turning my horse's head in that direction he discovered a path which led up the mountain in the direction of the light. Following that path, I ascended the mountain for about three-quarters of a mile, when I came to a little log cabin. In answer to my summons, the owner came out, and when I told him my name and explained the situation he invited me into the house and introduced me to his wife and two daughters. After the two girls had gotten supper for me, the old man said, "Now, girls, bring out the letters from the boys and read them to 46 Mr. Goode." That old man, living in a log cabin, who had no interest in slavery, had sent five sons to the front to fight for the State, and their letters breathed as pure and lofty spirit of patriotism as could have emanated from our great chieftain himself.

Virginia had been ardently and devotedly attached to the Constitutional Union of 1789, because it was in great part the creation of her own hands and because she regarded "the safety of the Union as the safety of the States"; but she had consistently maintained the doctrines of the States' Rights school, of which her Jefferson, Madison, and Mason were the great expounders.

Before the dark storm cloud of war which had been so long gathering burst in all its fury upon the land, she exerted all her great powers and all her persuasive influence to avert the dire calamity, to preserve the public peace, and to restore to the contending sections the spirit of fraternal concord and harmony. She sent commissioners to some of her more impatient sister States of the South to advise a course of moderation. On the 19th of January, 1861, her General Assembly adopted resolutions by which the other States were invited to send delegates to a Peace Conference at Washington for the purpose of devising, if possible, a plan of pacification. She sent as her delegates to that conference, Ex-President John Tyler, William C. Rives, John W. Brockenbrough, George W. Summers, and James A. Seddon. The States of Rhode Island, New Jersey, Delaware,

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Maryland, New Hampshire, Vermont, Connecticut, Pennsylvania, North Carolina, Ohio, Indiana, Illinois, Kentucky, Tennessee, Massachusetts, Missouri, New York, Maine, Iowa and Kansas responded to her invitation and were represented at the conference which assembled at the city of Washington on the 4th day of February, 1861, and organized by the election of John Tyler as its president. The Virginia delegates urged the propositions known as the Crittenden resolutions, with certain modifications, as an acceptable basis of adjustment. They were rejected, and in lieu thereof an article consisting of seven sections, and intended as an amendment to 47 the Constitution, was adopted and directed to be submitted to Congress, with the request that it be recommended to the several States for ratification.

The plan, when submitted to Congress, failed to secure its recommendation, and thus the Peace Conference, so called, inaugurated by Virginia, passed into history, as a failure. During its deliberations one of its most distinguished members, Salmon P. Chase, of Ohio, afterwards Secretary of the Treasury and Chief Justice of the United States, declared with perfect frankness to the Southern delegates that the people of the Free States never would consent to deliver up fugitive slaves on claim of the persons to whom their services were due under the laws of the State from which they had escaped, and that they would insist upon the right of the General Government to prevent the people of the Southern States from going with their slave property into the common territory of the Union acquired by the common blood and the common treasure. On the 11th of February, while the conference was still in session, a Northern Senator Wrote a letter to the Governor of his State in which, among other things, he said, "Without a little blood letting, this Union will not, in my estimation, be worth a rush." He was one of those redoubtable warriors described by Ben Hill of Georgia as "invisible in war and invincible in peace."

As has been already stated, the convention assembled on the 13th of February, 1861. On February 16th a committee of twenty-one was appointed, to whom all resolutions touching Federal relations were referred. That committee consisted of the following members: Robert Y. Conrad. Henry A. Wise, Robert E. Scott, William Ballard Preston,

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William MacComas, Samuel Price, Lewis E. Harvie, William H. MacFarland, Robert L. Montague, Valentine W. Southall, Waitman T. Willey, James C. Bruce, William W. Boyd. James Barbour, Samuel C. Williams, Timothy Rives, Samuel McDowell Moore, George Blow, Peter C. Johnston, John B. Baldwin. and John J. Jackson.

On February 18th Hon. Fulton Anderson, Commissioner from Mississippi, Hon. Henry L. Benning, Commissioner from Georgia, and Hon. John S. Preston, Commissioner 48 from South Carolina, appeared before the convention to explain the causes which had induced their respective States to withdraw from the Union and to invite the co-operation of Virginia.

Mr. Anderson in his exordium said:

In recurring to our past history we recognize the State of Virginia as the leader in the first great struggle for independence. Foremost, not only in vindication of our own rights, but in the assertion and defense of the endangered liberties of her sister colonies, and by the eloquence of her orators and statesmen as well as by the courage of her people, arousing the whole American people in resistance to British aggression. And when the common cause had been crowned with victory under her great warrior statesman, we recognize her also as the leader in that great work by which the emancipated colonies were united under a written Constitution which, for the greater part of a century, has been the source of unexampled progress in all that constitutes the greatness and happiness of nations. Nor do we forget that that progress has been due in a pre-eminent degree to the munificent generosity of Virginia in donating as a free gift to her country that vast territory northwest of the Ohio River which her arms alone had conquered, and which now constitute the seat of empire, and, alas! too, the seat of that irresistible power which now erects its haughty crest in defiance and hostility and threatens the destruction of the honor and prosperity of this great State.

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After reviewing the events which had taken place in Mississippi since the election of Mr. Lincoln, upon a platform of irreconcilable conflict between the two sections of the Union, and enumerating at length the causes which had induced the action of his State, he said:

In conclusion, gentlemen, let me renew to you the invitation of my State and people, to unite and co-operate with your Southern sisters who are already in the field, in defense of their rights. We invite you to come out from the house of your enemies and take a proud position in that of your friends and kindred. Come and be received as an elder brother whose counsels will guide our actions and whose leadership we will willingly follow. Come and give the aid of your advice in council and your arm in battle; and be assured that when you do come, as we know you will do, at no distant day, the signal of your movements will send a thrill of joy vibrating through every Southern heart from the Rio Grande to the Atlantic, and a shout of joyous congratulation will go up which will shake the continent from its center to its circumference.

Mr. Benning on the same day made a strong argumentative address, in which with great fulness and particularity he exhibited to the convention the reasons which had induced Georgia to take the important step of secession, and then laid before them certain facts and considerations in favor of the acceptance by Virginia of the invitation to join Georgia and the other seceded States in the formation of a Southern Confederacy. He endeavored to show that it would be to the interest of Virginia materially, socially, politically, and religiously to accept the invitation of Georgia.

Mr. Preston, an orator by heredity, delivered an address of surpassing eloquence and power. In defense of the right of secession he called attention to the fact that in the Treaty of Peace with Great Britain that Government acknowledged the States severally by name as sovereign and independent, and that the whole spirit and genius of the Constitution of 1789 recognizes the sovereignty of the States and its own mere agency in the exercise of deputed and limited functions. He referred to contemporaneous construction, especially that of Virginia by Mr. Madison, who declared that, "The Constitution of the United States

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was formed by the sanction of the States given by each in its sovereign capacity; the States then being the parties to the Constitutional compact and in their sovereign capacity, it follows, of necessity, that there can be no tribunal above their authority to decide in the last resort whether the compact made by them be violated, and, consequently, as parties to it, they must themselves decide in that last resort.” He then proceeded to state the more prominent and immediate causes which had induced South Carolina to abrogate her consent to the Constitution of the United States, and repelled the charge that she had acted with rash precipitancy. In conclusion he said:

In this fight for a time my little State stood alone—that little State around whose outermost borders the guns fired at the capital might almost be heard; whose scope of sky is scarce large enough for one star to glitter in. So small, so weak, so few, we began this fight alone against millions, and had millions been piled on millions, under God in such a fight, we would have triumphed. But, sir, that God cares for liberty, truth, and right among his people and we are no longer alone. Our own children from Florida and Alabama answered to the maternal call, and our great sister, Georgia, marshalled forth her giant progeny; the voice of Quitman came out of his grave on the Mississippi, and Louisiana proved herself the offspring of the Apostle of Liberty; and now young Texas raises her giant form and takes her place at the head of this majestic column of Confederate sovereignties. And, sir, wherever Virginia has a son beyond her borders, his voice is known because he speaks 50 in the ancient tongue of his mother. Mr. President, I, one of the humblest of those sons, have told my adopted brethren, I have promised them that before the spring grass grows long enough to weave a chaplet of triumph, they will hear the stately tramp of a mighty host of men, a sound as if the armies of destiny were afoot, and they will see floating above that host a banner whose whole history is one blaze of glory and not one blot of shame; and coming up from that host they will hear one voice only—the resounding echo of that voice which thundered into the hearts of your Godlike sires, “Give me liberty or give me death,” and on that banner will be written the unsullied name of Virginia. The world knows her history and knows no history above it in the niche of fame. And knowing it, none

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dare doubt where Virginia will be found when her own offspring, divine liberty, and justice call her to the fight.

But notwithstanding the fervid eloquence of the matchless orator from South Carolina, the convention remained firm and immovable. At that time, according to my present recollection, its members might have been classified as follows: One-fourth for immediate secession, one-fourth for the Union unconditionally, and one-half in favor of making still further effort to bring about pacification and avoid disunion if possible. On March 9th, Mr. Conrad, as chairman of the Committee on Federal Relations, submitted a report. It declared that the people of Virginia recognize the American principle that government is founded on the consent of the governed, and they concede the right of the people of the several States in the Union, for just cause, to withdraw from their association under the Federal Government with the people of the other States, and to erect new governments for their better security; and they would never consent that the Federal power, which is in part their power, shall be exerted for the purpose of subjugating the people of such State to the Federal authority. The report concluded as follows:

The peculiar relations of the States of Delaware, Maryland, Virginia, North Carolina, Tennessee, Kentucky, Missouri and Arkansas to the other States make it proper in the judgment of this convention that the former States should consult together and concert such measures for their final action as the honor, the interests, and the safety of the people thereof may demand; and for that purpose, the proper authorities of those States are requested to appoint commissioners to meet commissioners to be appointed by this convention on behalf of the people of this State, at Frankfort in the State of Kentucky on the last Monday in May next.

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The committee also appended to their report a proposed amendment to the Constitution of the United States. Substitutes for the report of the committee were offered by Mr. Wise, Mr. Harvie, Mr. Barbour, Mr. Baldwin, Mr. Wickham, Mr. Goggin, Mr. Carlisle, Mr. Boyd,

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Mr. Hall, and Mr. Early, and amendments by way of addition to the report were offered by Mr. Wysor, Mr. Speed, and Mr. Scott.

On March 27th the Committee on Federal Relations submitted in committee of the whole a substitute for their former report providing that the amendments to the Constitution carrying into effect the suggestions made in that report should be submitted to the people of the several States for their approval or rejection. In case said amendments should not be approved by the legislatures or conventions of said States on or before the first Monday in October, an ordinance resuming to the State of Virginia the powers heretofore delegated by her to the Federal Government should take effect on the third Monday in October: *Provided*, that said amendments and ordinance should be submitted to the people of Virginia at the next election for their approval or rejection. The two reports made by the committee and the various substitutes proposed by individual members were ably and earnestly discussed for several weeks. Among the ablest debaters, I recall now the names of John Tyler, Robert Y. Conrad, Robert E. Scott, John B. Baldwin, Alexander H. H. Stuart, James Marshall, George W. Randolph, Robert L. Montague, Lewis E. Harvie, Jubal A. Early, and James C. Bruce. Among the recognized orators were Henry A. Wise, William Ballard Preston, James P. Holcombe, George W. Summers, and John T. Thornton. On one occasion I remember that the gifted gentleman last named made an impromptu address which electrified the convention and was pronounced by all who heard it to be worthy of Virginia in the days of her pristine glory, when Patrick Henry, by his heaven-born eloquence, kindled the fires of the American Revolution.

After the receipt of Mr. Lincoln's inaugural address delivered on the 4th of March, the feeling of excitement existing at Richmond was greatly intensified. The galleries of 52 the hall in which the convention sat were filled at an early hour in the morning and long before the time of meeting had arrived. Large crowds of people paraded the streets at night with bands of music and called out their favorite orators at the different hotels. An excited multitude had made every preparation to burn in effigy a prominent member of the convention on account of his strong Union sentiments, but the outrage was prevented

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by the timely interference of O. Jennings Wise, a gallant, chivalrous gentleman, who was afterwards killed in battle at Roanoke Island. During that period of excitement an article describing the convention as a menagerie, and severely ridiculing some of its members, appeared in the *Richmond Examiner*, edited at that time by that brilliant and eccentric genius John M. Daniel. Although another gentleman was generally supposed to be the writer, Mr. Daniel accepted the responsibility for the authorship and the result was a personal encounter between himself and Marmaduke Johnson, a member from the city of Richmond.

Soon after the inaugural address of President Lincoln was delivered, the convention sent a committee consisting of three members, William Ballard Preston, Alexander H. H. Stuart and George W. Randolph, to the city of Washington to wait upon him and request him to communicate to the convention the policy he intended to pursue toward the seceding States. He replied as follows: "Not having as yet seen occasion to change, it is now my purpose to pursue the course marked out in the inaugural address." When the committee returned to Richmond, and reported the result of their mission, the convention went into secret session to consider it. While they were thus deliberating, Mr. Lincoln, on the 15th of April, issued his famous proclamation calling forth the militia of the several States to the aggregate number of 75,000 for the purpose of coercing the seceding States, South Carolina, Georgia, Alabama, Florida, Mississippi, Louisiana, and Texas. The quota of Virginia was 2,340 men, and in response to the proclamation of the President, Governor Letcher, that noble old Roman who had labored most energetically and patriotically to stay the rising 53 tide of disunion, promptly replied that he would furnish no troops for any such purpose, and added, "You, sir, have chosen to inaugurate civil war."

That proclamation destroyed all hope of a peaceful settlement. It determined the action of the convention. The middle men, so called, who had held on to the Union as the shipwrecked mariner holds to the last plank when the midnight storm and tempest are gathering around him, were swept away by the overwhelming tide of popular excitement. They realized that the Union had already been dissolved by the withdrawal of the seven

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seceding States and that the proclamation of President Lincoln had reduced Virginia to a most distressing alternative. She must fight on one side or the other. She must unite with the North in the work of subjugation or she must stand in the defense of her Southern sisters. She knew full well that if she attempted to secede she would take upon herself the principal burden of the great conflict; that every foot of her soil would be pressed by the red, fiery hoof of war, and that every field would soon become a battlefield. But she did not hesitate. She resolved that every consideration of duty and of honor required her to unite her fortunes with those of the seceding States. On the 16th of April, William Ballard Preston submitted an ordinance prepared by Charles R. Slaughter of Lynchburg, entitled, "An Ordinance to repeal the ratification of the Constitution of the United States of America by the State of Virginia and to resume all the rights and powers granted under the said Constitution." Mr. Scott of Fauquier submitted a substitute providing for a vote on the fourth Thursday of May to ascertain the preference of the people between immediate secession and a consultation with the eight slaveholding States still remaining in the Union before taking final action. After an earnest and solemn debate, during which strong men were seen to shed tears, the convention on the 17th of April rejected the proposed substitute and adopted by a vote of 88 to 55 the ordinance offered by Mr. Preston.

The ordinance was submitted to the people, and on the fourth Thursday of May it was ratified by a large majority, 54 the vote being 125,950 for ratification and 20,373 against it. It is proper to say that the vote in opposition was cast principally in the northwestern counties, whose members had voted against the ordinance in the convention, and which subsequently formed the new State of West Virginia. For several days prior to the action of the convention, on the 17th of April, there had been a convention of the people in session at Metropolitan Hall in the city of Richmond. They had come from all parts of the State to make known the popular demand for decisive action without further delay. On the 18th of April, on motion of Willoughby Newton of Westmoreland, they resolved, "That the thanks of this convention be cordially tendered to the State Convention for the noble act of patriotic duty which they have just performed; and forgetting all past dissensions, we

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will rally with united hearts and hands in defense of the honor, safety, and independence of Virginia and the Confederate States.” The convention, by an ordinance passed on the 17th of April, invited all her worthy and efficient sons who were officers in the Army and Navy of the United States to decline such service and take commissions under the State of Virginia. Immediately after the adoption of the ordinance of secession, on the 17th of April, Governor Letcher, at the instance of the convention, communicated its action to the President of the Confederate States at Montgomery, and requested that a commissioner be sent to negotiate an alliance offensive and defensive with the Commonwealth of Virginia. Alexander H. Stephens, Vice-President of the Confederate States, a man of remarkable appearance and extraordinary forensic powers, came upon that important mission. He arrived in Richmond on the 22d of April, and two days thereafter met in conference a committee of the convention, consisting of John Tyler, William Ballard Preston, Samuel McDowell Moore, James P. Holcombe, James C. Bruce, and Lewis E. Harvie. The result of that conference was the adoption of a treaty by which Virginia, looking to a speedy union with the Confederate States, agreed that the whole military force and military operations of the Commonwealth, in the impending conflict with the Government of the United States, should be under the chief direction and control of the President of the Confederate States, on the same footing as if the Commonwealth had already become a member of the Confederacy.

During the interval between the adoption of the ordinance of secession by the convention on the 17th of April and its ratification by the people on the fourth Thursday of May, it became necessary to appoint a commander-in-chief of the military forces of Virginia. Governor Letcher appointed Robert E. Lee, with the rank of major-general, and that appointment was unanimously confirmed and made known to him by the convention on the 23d of April. Never can I forget that solemn and impressive scene. General Lee entered the House of Delegates, where the convention was sitting, leaning upon the arm of Marmaduke Johnson, a member from the city of Richmond. He had been immediately preceded by Alexander H. Stephens, Governor Letcher, and the members of his advisory

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council, Judge John J. Allen, President of the Court of Appeals; Col. Francis H. Smith, Superintendent of the Virginia Military Institute; and Commodore Matthew F. Maury, of world-wide renown. When General Lee entered the hall, every member of the convention arose instinctively to his feet. When he reached the center of the main aisle he paused and stood while he listened to the eloquent and soul-stirring address of the venerable John Janney, the president of the convention. Among other things, Mr. Janney said:

When the necessity became apparent of having a leader for our forces, all hearts and eyes, by the impulse of an instinct which is a surer guide than reason itself, turned to the old county of Westmoreland. We knew how prolific she had been in other days of heroes and statesmen. We knew she had given birth to the Father of His Country, to Richard Henry Lee, to Monroe, and last though not least, to your own gallant father; and we knew well by your deeds that her productive power was not yet exhausted. Sir, we watched with the most profound and intense interest the triumphal march of the army led by General Scott, to which you were attached, from Vera Cruz to the Capital of Mexico. We read of the sanguinary conflicts and the bloodstained fields, in all of which victory perched upon our own banners. We knew of the unfading luster that was shed upon the American name by that campaign, and we knew also, what your modesty has always disclaimed, that no small share of the glory of those achievements was due to your valor and your military genius.

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Upon the conclusion of Mr. Janney's address, General Lee, with evident emotion, replied as follows:

Mr. President and gentlemen of the convention: Profoundly impressed with the solemnity of the occasion, for which I must say I was not prepared, I accept the position assigned me by your partiality. I would have much preferred that your choice had fallen upon an abler man. Trusting in Almighty God, an approving conscience, and the aid of my fellow-citizens,

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I devote myself to the service of my native State, in whose behalf alone will I ever again draw my sword.

What a noble dedication was that! How sublime in its unaffected simplicity and modesty!

In the beginning of the ever-memorable year of 1861, when the dark storm-cloud of war was gathering which was so soon to burst in all its fury upon the land which he loved so well, he was stationed at San Antonio, Texas, and it was there he received intelligence that Virginia, his Mother State, was about to dissolve her connection with the Federal Union and espouse the cause of her sister States of the South which had already seceded and were then threatened with coercion by the General Government at Washington.

We can well imagine the great struggle which must have agitated his manly breast and stirred his noble nature to its inmost depths in determining upon the course he would pursue. But none who knew him for a moment doubted what his final decision would be. He had always believed, and acted upon the belief, that "duty is the sublimest word in the English language." He was ardently and devotedly attached to the Union of the States, because it was in great part the creation of those to whom he was bound by the nearest and dearest ties of consanguinity and affection, and because he had devoted to its service the best years of his life and had fought under its flag on many hotly contested fields. But he was a native-born son of Virginia. He felt that his paramount allegiance was due to her, and when she called upon her children to come to her defense, he responded to her call with filial love and devotion. What his feelings at that time must have been may be seen in the following extract from a letter written by the noble partner of his bosom to a Union friend: "My husband has wept tears of blood over 57 this terrible war, but he must, as a man of honor and a Virginian, share the destiny of his State which has solemnly pronounced for independence."

He had been taught that his State had the constitutional right to withdraw from the Union. While he was a cadet at the Military Academy at West Point, "Rawle on the Constitution"

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was used as a text-book, and that author distinctly teaches the doctrine of secession; he says:

It depends on the State itself whether it will continue a member of the Union. To deny this right would be inconsistent with the principle on which all our political systems are founded, which is, that the people have, in all cases, a right to determine how they will be governed. This right must be considered as an ingredient in the original composition of the General Government which, though not expressed, was mutually understood. Allegiance would necessarily cease on the dissolution of the society to which it was due.

In less than four years from the time General Lee resigned his commission in the United States Army, he had filled the world with his fame. Lord Wolseley, the great Field Marshal of England, in his autobiography, thus speaks of General Lee, whom he met during the war in the neighborhood of Sharpsburg:

He was the ablest general and, to me, seemed the greatest man I ever conversed with; and yet, I have had the privilege of meeting Von Moltke and Prince Bismarck, and at least upon one occasion had a very long and interesting conversation with the latter. General Lee was one of the few men who ever seriously impressed and awed me with their natural, their inherent greatness.

Forty years have gone since our meeting, yet the majesty of his manly bearing, the genial, winning grace, the sweetness of his smile and the impressive dignity of his old-fashioned style of address come back to me among the most cherished of my recollections.

Benjamin H. Hill, the matchless orator of Georgia, exhausted the language of eulogy when he said of General Lee:

He was a foe without hate, a friend without treachery, a soldier without cruelty, and a victim without murmuring. He was a public man without vices, a private citizen without wrong, a neighbor without reproach, a Christian without hypocrisy, and a man without guilt.

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He was Cæsar without his ambition, Frederick without his tyranny, Napoleon without his selfishness, and Washington without his reward. He was as obedient to authority as a servant and royal in authority as a king. He was as gentle as a woman in life, pure as a virgin in thought, watchful as a Roman vestal, submissive to law as Socrates, and grand in battle as Achilles.

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He was not only great as a warrior; he was pre-eminently great as a man. It is said that "he that ruleth his own spirit is mightier than he that taketh a city." There is no victory like that which man achieves over himself. No man was ever more self-poised or had more complete control of himself. In my humble opinion, the crowning glory of General Lee's character and life was his acceptance of the Presidency of Washington and Lee University, and the dedication of his declining years to the important work of educating the young men of the country and preparing them by his influence and example for the proper discharge of the responsible duties of citizenship.

In thus turning aside from the tempting and alluring offers of ambition and place, he gave the finishing touch to his complete and well-rounded career and furnished the most striking illustration of the great truth that "peace has her victories no less renowned than war."

After the scene in the Virginia convention which I have already described, I saw General Lee frequently during the war. I saw him at the battle of Seven Pines when he took command of our army after General Johnston was wounded. I saw him during the seven days' battles around Richmond, and was present at a conversation between him and General Early on the morning of the battle of Malvern Hill. In reply to a remark made by General Early about the movements of General McClellan, General Lee said, with some impatience of manner, "Yes, he will get away because I cannot have my orders carried out." It is supposed he had reference to the unfortunate failure of two of his major-generals to intercept McClellan on his retreat at certain points where they were ordered to be.

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Again I saw him near Orange Court House after his return from Gettysburg, and, notwithstanding he had just sustained a severe loss, he seemed to be entirely calm, serene, and self-poised.

The last time I ever saw him was at a private dinner party given to him in the city of Norfolk on his return from Savannah, Georgia, a few months prior to his death. At that time the people of the South were passing through the severe and trying ordeal of reconstruction. In the freedom of conversation among friends who had suffered in common, whose hopes and aspirations were the same, it was to be expected that allusion would be made to the unfortunate condition of the Southern people and to the multiplied wrongs heaped upon them by the dominant party in Congress; but I observed that no word of bitterness escaped his lips, and that nothing was said by him that could not have been properly repeated anywhere or in any presence. His conversation showed that when he laid down his arms at Appomattox and professed to renew his allegiance to the Government of the United States, he made no mental reservation, but acted in good faith and meant what he said. It was thus he demonstrated to all the world that he could be the hero even of a lost cause.

On the 25th of April the convention passed an ordinance adopting and ratifying the Constitution of the Provisional Government of the Confederate States, which had been ordained and established at Montgomery on the 8th of February, with the proviso that it should cease to have any legal effect if the people should reject the ordinance of secession. On the same day an ordinance was passed ratifying and confirming the convention entered into between the commissioner of the Confederate States and the commissioners of the State of Virginia. At the same time the convention elected Robert M. T. Hunter, William C. Rives, John W. Brockenbrough, Waller R. Staples, and Gideon D. Camden to represent the State in the Provisional Congress then in session at Montgomery. On the first day of May the convention took a recess until the 12th day of June, and from the first day of July to the second Wednesday of November, from which

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time they remained in session until the 6th day of December, when they adjourned *sine die*. At the November session, Mr. Janney having resigned as president, on account of failing health, Robert L. Montague, an accomplished parliamentarian, was elected in his place.

On the 19th of June an ordinance was passed adopting the Constitution of the Confederate States of America and proclaiming it to be binding upon the people of Virginia. The two adjourned sessions were principally occupied in organizing the army and navy, equipping the volunteers, making military preparations for defense, and discussing the provisions of the proposed new Constitution of Virginia, which was adopted on the 5th day of December, and ordered to be submitted to the people. During the recess of the convention some of its members entered the military service, and many more after the final adjournment. Among those who took up arms in defense of the State I may mention Jubal A. Early, who became a lieutenant-general; John B. Baldwin, who was appointed inspector-general; Henry A. Wise, a brigadier-general; Eppa Hunton, the hero of Balls Bluff, and after Gettysburg a brigadier-general; William C. Wickham, a brigadier-general; John Echols, a brigadier-general; George W. Brent, chief of staff; William White, colonel of infantry; John A. Campbell, colonel of infantry; Thomas S. Flournoy, colonel of cavalry; Thomas F. Goode, colonel of cavalry; John T. Thornton, lieutenant-colonel of cavalry, who fell upon the field of battle and poured out his life's blood for the land he loved so well; James V. Brooke, captain of artillery; and John Q. Marr, the gallant captain of the Warrenton Rifles, the first Confederate soldier who fell on Virginia soil, having been killed on the first of June in a skirmish at Fairfax Court House. There are doubtless others equally entitled to be held in grateful and affectionate remembrance, but at this moment their names have escaped my recollection. Forty-five years have elapsed since the secession convention of Virginia assembled. All of its one hundred and fifty-two members, with the exception of Eppa Hunton and myself, have passed away from the scenes of earth.

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“What shadows we are What shadows we pursue.”

My acquaintance with General Early commenced soon after my admission to the bar in 1851. I attended the courts in Franklin County, in which he resided, and there I first met him. He was a graduate of the Military Academy at West Point and had rendered conspicuous service in the Mexican war, having acted as major of the Virginia regiment. 61 After the occupation of Monterey by the United States troops, he acted as Military Governor of that town. While not an attractive speaker, he was a man of keen intellect and extraordinary powers of analysis. He was thoroughly equipped in his profession and was a foeman at the bar worthy of any man's steel. He was selected as an uncompromising Union man from the county of Franklin to the Secession Convention in 1861. His colleague was Peter Saunders. They were opposed by Col. Hughes Dillard, a States' Rights man of the old school, and an ardent secessionist. I have often heard Colonel Dillard, in his hospitable home at Rocky Mount, relate some very amusing anecdotes of the campaign. Among others was the following: He said that the religious sect known as Tunkers, commonly called Dunkards, was so numerous in the county of Franklin that they held the balance of power and generally controlled the elections. They were opposed to the institution of slavery and strongly in favor of the preservation of the Union. They usually held a large meeting on Sunday before every election and determined how they would vote. On this occasion they met on Sunday preceding the election on Monday and Colonel Dillard, accompanied by his friend Bill Cooper, a local politician, attended. Being a candidate and desiring that his presence should be known, he took a prominent seat near the pulpit in the amen corner. The preacher was a German named Naff. After preaching his regular sermon, he concluded as follows: “My brethren, the country is in great trouble. A convention has been called and to-morrow is the election. Jubal Early and Peter Saunders are the Union candidates and Hughes Dillard is the Secession candidate. We are sorry for friend Hughes this time but we want you all to go to the polls to-morrow and vote for Jubal Early and Peter Saunders. As Jubal Early votes in the convention, so Peter Saunders will vote.” When the preacher sat down, Colonel Dillard arose and

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undertook to address the meeting. He said he had come there to attend public worship and had no idea that politics would be introduced, but since allusion had been made to him, he begged the privilege of making a few remarks. At 62 this point the preacher interposed. Throwing back his head, lifting his hands, and closing his eyes, he said with great solemnity, "We have no politics here on Sunday. We will look to the Lord and be dismissed." Dillard said that if a bomb-shell had been thrown among them, they could not have gotten away more rapidly.

General Early voted against the ordinance of secession, but when the members of the convention proceeded to append their signatures to it, he asked and obtained leave to have the following printed in the journal: "Abraham Lincoln, President of the United States, having set aside the Constitution and laws and subverted the Government of the United States, and established in lieu thereof an usurped government founded upon the worst principles of tyranny, the undersigned has therefore determined to sign the ordinance of secession adopted by this convention on the 17th of April last, with the intention of sustaining the liberties, independence, and unity of the State of Virginia against the said Abraham Lincoln, his aiders and abettors, and with no hope or desire for a reconstruction of the old Union in any manner that shall unite the people of Virginia with the people of the non-slave-holding States of the North."

On the 1st day of June, 1861, Early was nominated as colonel of infantry by Governor Letcher and unanimously confirmed by the convention. During the progress of the war he was promoted for gallantry and efficiency to the rank of brigadier-general, major-general, and lieutenant-general. No higher tribute to his military character could possibly be paid than to say that throughout the war he enjoyed to an unlimited extent the confidence and esteem of his great commander.

After espousing the cause of the Confederacy General Early gave to it no half-hearted allegiance but devoted to its service all the highest energies of his noble nature until it

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went down in disaster and defeat, and even then he continued as long as he lived to uphold and defend it with his brilliant pen against all adverse criticism.

He never missed an opportunity to make a friendly fling at the members of the convention who were pronounced as 63 original secessionists. One of the most conspicuous of these was the venerable Jeremiah Morton, who represented the county of Orange. He made a speech in the convention in which he earnestly insisted that in any adjustment of our political troubles with the non-slave-holding States the people of the South should demand the recognition of their constitutional right to go with their slave property into the common territory of the Union which had been acquired by the common blood and the common treasure. In the winter of 1861–2, when our army was falling back from Manassas and the roads were almost impassable, and the wheels of the artillery were almost up to their hubs in the mud and the horses' harness breaking, Mr. Morton was riding along the public highway in his neighborhood and met General Early at the head of his column. As soon as he saw his former colleague approaching, his bright black eyes began to twinkle, and in that drawling tone peculiar to him he said, "Well, Mr. Morton, when do you think, at this rate, we will get our rights in the territories?"

During the war I saw General Early under fire on several occasions and I do not hesitate to say that I have never known a man who seemed to be so utterly destitute of fear and so entirely insensible to danger. During the Hunter campaign I was with him as a volunteer aid on his staff. While he was pursuing the enemy very closely on the retreat from Lynchburg to Liberty, now Bedford City, he was so anxious to overtake them that he seemed to take no thought whatever of his own personal safety. He rode upon the skirmish line commanded by General Ramseur and we could distinctly hear the orders given by the officers to the rear-guard of the enemy commanded by General Averill. While the bullets were flying thick and fast and buzzing about our ears, I ventured to say, "General, if you will permit me to make a suggestion, I do not think you should expose yourself in this manner upon the skirmish line. You may be shot down at any moment." He looked at me very significantly and, smiling, said, "Do you think so, Goode?" He was

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a mind-reader and knew that I was concerned about my own safety, 64 because the members of the staff were bound to follow their general without any regard to the perils of the situation.

General Early was severely wounded at the battle of Williamsburg. He went to his home at Rocky Mount, and after remaining there a few weeks he returned to the army, then hotly engaged in the seven days' fights around Richmond. He was restless and impatient to rejoin his comrades in the field, although he had not entirely recovered and was compelled to carry his wounded arm in a sling. He came to Richmond, and before leaving for the front he invited me to accompany him and offered me the use of one of his horses, a powerful animal and somewhat unmanageable. Perhaps I should have remained at my post of duty in the Confederate Congress then in session, but I could not resist the temptation to accept his invitation. We left Richmond together about 3 o'clock in the afternoon, and soon after leaving we could hear distinctly the sound of the guns at Frazier's Farm, at which place a bloody battle was then in progress. We quickened our pace but did not reach the battlefield until some time after nightfall. General Early and his staff reported at once to General Lee. When we rode to the point on the field where he was stationed, we found him busily engaged in giving orders to his staff, and among other things directing them to extend the proper courtesies to Major-General McCall of the Union Army, who had just been captured and brought in as a prisoner.

After the battle was over we laid down on the bare ground in the pines, not far from General Lee, with our heads resting upon our saddles as pillows. The next morning General Early was assigned to the command of the brigade commanded by General Elzey, who had recently been disabled by a wound. That brigade formed a part of General Jackson's command. As we started out to look for the brigade, we met General Jackson at the head of his troops, coming down the main road leading to Malvern Hill. I had known him while he was a professor at the Virginia Military Institute, and I recall with much satisfaction the fact that on the 27th of April, 1861, in the Virginia convention, it was upon my motion that his nomination by the executive as 65 colonel of volunteers was

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unanimously confirmed. I saw him on this occasion for the first and only time during the war, and I can never forget his appearance as he sat deep down in his saddle, his little faded cap resting on the end of his nose. When General Early reported to him they rode down the highway in the direction of the enemy and dismounted. While they were seated upon a log engaged in conversation and the members of the staff were still upon their horses, a sharp fire came from our immediate front and shot and shell flew about us in close proximity. The two generals hastily mounted and galloped back to the troops. A shell exploded near my horse and a piece of it struck him on one of his fore legs. He reared and plunged about until I was knocked off by coming in contact with a tree and I fell violently to the ground. As soon as I could remount my horse, which had been kindly brought to me by Mr. Hale, a member of the staff, I went to the field hospital, where I remained until I had recovered sufficiently to ride back to Richmond.

**Chapter V Virginia takes her place at the head of the Confederate column—
The noble women of the Confederacy—Bedford County the first to respond—
Her splendid contributions to the cause—In camp of instruction and then on
to Manassas—Second Virginia Regiment of Cavalry—Battle of Manassas—Bee
christens Jackson—General Terry's distinguished services.**

When Virginia, true to her ancient principles and her hereditary renown, determined to take her proper position at the head of the Confederate column, the General Government at Washington began to prepare for the work of subjugation. Her soil was soon occupied by an army of invasion. The thunder of hostile guns echoed and re-echoed along all her coasts. Her sleeping cities were awakened by the terrible music of bursting bombs. It was then that she rose up in all her queenly majesty and proudly defied her enemies. She called upon her children everywhere to come to her defense and they came at her call. They came from mountain top to bay shore and from far off lands beyond the seas. They came from the pulpit and the bar, the workshops and the fields, the colleges and the schools. Who can ever forget the soul-stirring events of that ever-memorable period? Who can ever forget the lofty courage and the generous enthusiasm with which our brave

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and patriotic defenders responded to the call of their Mother State? Who can ever forget the unselfish devotion with which they poured out their life's blood in response to her call? Who can ever forget the unfailing constancy and the unshaken fortitude with which they followed the fortunes of the Confederacy from its cradle to its grave? Who can ever forget that noble army of martyrs who, having sealed their devotion to the cause of Southern independence with their life's blood, now sleep in silent graves all over the land, where they will rest in peace until the eternal morn shall wake the slumber of the tomb? Shall the time ever come when they will be "unwept, unhonored, and unsung"? These are precious and hallowed memories. They must not be allowed to perish forever from the earth. We could not forget them if we would. We would not forget them if we could. We could not forget them without being guilty of the basest and blackest ingratitude. We could not forget them without becoming lost, utterly lost, to all the finer sensibilities of our nature, and monsters in whose breasts the nobler attributes of our common humanity find no resting place.

While the war continued, almost every inch of the soil of Virginia was pressed by marching hosts; almost every field was a battlefield and almost every house a hospital. When the war terminated, the wealth of the people of Virginia had been swept away. Their agricultural implements had been destroyed. Their labor system had been abolished. Their State Government had been overthrown. But they did not despair. They did not sit down and fold their arms in ignoble and inglorious ease. Instead of calling upon Hercules for help, they went to work to help themselves. They went to work with a resolute purpose and indomitable will worthy of the heroic race from which they sprang.

It would be unpardonable if I should omit honorable mention of the noble women of the Confederacy. They will not only continue to live in our grateful and affectionate remembrance, but the time will come when the men of the South will hold it to be a pious and patriotic duty to erect at the city of Richmond, the capital of the Confederacy, a magnificent monument to their memory—a monument that will stand forever as a mute witness of their admiration and love. Throughout the war, from its commencement to its

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close, the women of the Confederacy, although the greatest sufferers, were the truest of the true. In all the trials and vicissitudes of the war, it was their unfailing constancy that nerved the arms and strengthened the hearts of their fathers, husbands, sons, and brothers. It was their undying fortitude that impelled them to press forward when otherwise they might have faltered or fallen by the wayside. Like true patriots, they submitted without a murmur to privation, hardship, and want. They occupied their time in knitting and sewing for the soldiers in the field and, like ministering angels, they visited the sick and wounded in the hospitals and received from the lips of the dying the last sad messages to the loved ones at home. It is due to the truth of history to say that the women of the Confederacy made the men of the Confederacy what they were. It was their sweet influence that encouraged the private soldiers in the supreme moment of battle. It was their patriotic zeal that fired the hearts of our renowned chieftains who covered themselves with an immortality of glory. And such chieftains the world never saw before. Albert Sidney Johnston, that heroic soldier and courtly gentleman who bravely perished while gallantly leading a charging column, and with his latest breath cheered on his comrades to victory. And Joseph E. Johnston, that superb strategist and consummate master of the art of war. And Nathan Bedford Forrest, whose maxim was when a battle was about to be fought, "Always get there first with the most men." And Wade Hampton, that paladin of the South, who galloped forth to meet the invading foe, "Bold as the lion's heart, Dauntless and brave; Knightly as the knightliest Bayard could crave." And glorious Jeb Stuart, that flower of cavaliers. No braver, knightlier foe "with mien more lofty or more joyous ever fought against Moor or Paynim or rode at Temple Stowe." And Stonewall Jackson, that thunderbolt of war, who suddenly emerged from the quiet walks of academic life, leaped upon the arena of human strife, and in two years' time filled the world with his fame. And Robert E. Lee, the stainless gentleman and Christian warrior, who has gone into history as a peerless captain among the sons of men.

In the ever-memorable spring of 1861, when "war's rude alarums" were first heard in the land, the noble old county of Bedford, upon the summit of whose mountains the spirit of

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liberty has ever sat—a county whose sons, always characterized by a sturdy spirit of independence, rendered conspicuous service in the Revolutionary war and war of 1812—was the first to respond to Governor Letcher's call for volunteers, and sent at once three companies to the front. As soon as the ordinance of secession was adopted she appropriated \$50,000 from her treasury to equip her soldiers for the field. She contributed altogether between 3,500 and 4,000 volunteers, of whom six became majors, nine were made colonels, and two were appointed brigadier-generals during the progress of the war.

One of the two last named was the gallant and accomplished Thomas T. Munford, who still lives to enjoy to an unlimited extent the admiration and esteem of all who know him; the other was Gen. William R. Terry, some of the incidents of whose life I desire here to place upon record. He was born in the town of Liberty on the 12th of March, 1827, and was educated at the Virginia Military Institute, that nursing mother of many heroes who covered themselves with imperishable glory during the war between the States. From his earliest boyhood he was noted as a splendid horseman. He sat upon his horse like a Centaur. In the early spring of 1861 he organized a volunteer company of cavalry which was composed of the flower of the young men of Bedford and of which he was elected captain. It was as noble a body of young men as ever set foot in stirrup or wielded a warrior's blade.

Early in May, 1861, Captain Terry with his gallant command left the county-seat of Bedford to enter the service of the State. Never can I forget, while memory performs its functions, that beautiful May morning. The birds were sweetly singing in the trees, the flowers were beautifully blooming, and all nature seemed to be rejoicing. In the presence of a large concourse of sympathizing people, a holy man of God, now a saint in heaven, Rev. John E. Wharton, invoked the Divine blessing upon Captain Terry and his men as they went forth with all the buoyancy of young manhood and all the enthusiasm of the volunteer soldier. They left many sorrowing and aching hearts behind them. They were followed by the prayers and benedictions of the pure, the virtuous, the patriotic and the good. The young wife, smiling fondly through her tears, had buckled on her husband's armor with her

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own fair hands and had inspired him with courage and with hope. The devoted mother, with more than Spartan heroism, knowing that she might never see her fair-haired, blue-eyed boy again, had sent him forth with a mother's blessing and a mother's injunction to prefer death to dishonor and to come back to her with honor or come not at all.

“Said Spartan mother to her son, And looking on his shield, Come with it when the battle's done Or on it from the field.”

After remaining a few weeks in a camp of instruction at Lynchburg, Captain Terry marched with his company to the neighborhood of Manassas Junction to join the Confederate forces. On our march we camped one night in a vacant lot adjoining a female seminary at Gordonsville. When we went to the pump the next morning to wash our faces, the young girls belonging to the seminary brought out their nice clean towels and offered them to us. After we had mounted to resume our march, and were drawn up in line in front of the long portico where the young girls stood to witness our departure, Captain Terry cried out, “Attention! Private Goode will advance two paces to the front and return thanks for our hospitable treatment.” If I had heard a thunderclap from a cloudless sky, I could not have been more astonished; but believing that the first duty of a soldier is to obey orders, I spurred my horse, advanced two paces in front of the line, doffed my military cap, and proceeded to harangue the young ladies in an impromptu address in which I said a great many foolish things. Among other things I told them that when the war was over we would return to our homes by way of Gordonsville and, like the Troubadours of old, would sing under their windows the songs of love.

When the Second Virginia Regiment of Cavalry was organized under the command of that accomplished gentleman and soldier Col. R. C. W. Radford, the company of 71 Captain Terry became Company A in that regiment, which afterwards rendered conspicuous service and achieved immortal renown upon many a hard-fought field. At the first battle of Manassas, on the 21st of July, 1861, having been temporarily detached from the regiment, Company A was stationed at the Stone Bridge on the turnpike road leading from

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Centerville to Warrenton. Before sunrise on the morning of that eventful day, great clouds of dust might be seen in the direction of Centerville, plainly indicating that the enemy were advancing, and soon the roar of heavy artillery was heard, shot and shell came screaming like lost spirits through the air, and the advancing hosts were momentarily expected to appear. But, as is well known, General McDowell, in command of the Federal army, before reaching the Stone Bridge, made a detour, crossed the Bull Run at Sudleys Ford two miles above the Stone Bridge, and undertook to turn General Beauregard's extreme left.

General Evans being in command on that part of the field, sent an order to Captain Terry to go with his company to the support of Colonel Wheat and his Louisiana Tigers, then hotly engaged with a division of the Federal army. Company A quickly responded to the order and galloped to the scene of the conflict, but it did not remain there long. By order of its captain it fell back to an adjoining hill and was drawn up behind a section of Latham's battery of artillery for its support. One of the enemy's batteries soon got the range of Latham's battery and opened a deadly fire. It was then and there that Captain Terry's company sustained its first loss in the fall of Private Fuqua, a gallant and true son of Bedford. Latham's battery having been withdrawn, Company A fell back to the plateau near the Lewis house, where it joined the regiment.

On its retreat to the last-named position it met Generals Bee and Bartow with their gallant South Carolina and Georgia brigades going into the fight; but the odds against them were too great, and they too, after sustaining heavy loss, were compelled to retire. Bee and Bartow were both killed, but before the noble Carolinian fell he uttered those memorable words with which, in a baptism of blood and fire, he gave a new name to the great Virginian who rolled back the advancing tide of battle on that sanguinary field, and will live in history as perhaps the most brilliant military genius produced by the war. In attempting to restore order to his broken columns, General Bee said to his men, "Rally behind the Virginians. Look yonder at Jackson, how he stands like a stone wall!"

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The tide of battle ebbed and flowed for several hours and it seemed that the day was going against us, but between three and four o'clock in the afternoon a young staff officer galloped up and, saluting Colonel Radford, at the head of his regiment, uttered these words, "General Johnston says the enemy are in full retreat and you must intercept them between the Stone Bridge and Centerville."

The Second Virginia Cavalry, though not actively engaged, had been under fire during the entire day, and rejoiced that the time had come for them to take a hand in the fray. The regiment, one thousand strong, at the word of command, with drawn sabers and the rebel yell, dashed through a cornfield into a county road leading through a body of woodland to the turnpike. The enemy, hearing them as they rode at headlong speed, stopped long enough in their retreat to prepare for the onset, and as the regiment emerged from the woods into the turnpike they encountered a deadly fire which emptied many saddles. Without stopping to attend to their dead and dying comrades who went down with the light of victory in their eyes and its shout on their lips, they gallantly charged the batteries in front of them and captured the men and guns. The retreat of the enemy soon became a complete rout. They threw away guns, knapsacks, haversacks, overcoats, everything that could possibly impede their headlong flight. The Second Virginia continued the pursuit far into the night, until it became necessary to return to Manassas with a large number of prisoners that had fallen into their hands. Never, perhaps, in the history of warfare has such a stampede of an army been known. I have been told since the war by some of the participants on the Federal side that it was caused by a rumor that spread from company to company, from regiment to 73 regiment, and from brigade to brigade, that General Johnston had eluded Patterson in the Valley, had just arrived on the field with 20,000 fresh men, and was moving rapidly to turn the right wing of the Union army.

Perhaps I may be pardoned for dwelling so long upon the incidents of the first battle of Manassas when it is remembered that I had the honor to be a member of Company A, commanded by Captain Terry, and as such had an opportunity to witness his soldierly

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bearing and his high qualities as a commander in the first of the many battles in which he was engaged during the war. I shall not undertake to follow him from Manassas to Appomattox and to recount his many gallant and glorious deeds. His conduct in the first battle of Manassas attracted the attention of his superior officers and he was soon afterwards promoted by request of Gen. Jubal A. Early to command the Twenty-fourth Virginia Infantry, from which command General Early himself had just been promoted to the rank of brigadier-general.

Colonel Terry was always found at the head of his regiment in its many bloody engagements. He was severely wounded at the battle of Williamsburg. Gen. Dabney Maury, a noble Virginian, who knew him intimately, has been heard to say that when leading his men he was, perhaps, one of the most gallant chargers known to history. When he charged on General Hancock's lines at Williamsburg, that superb soldier and distinguished military chieftain remarked to a correspondent of a Northern newspaper, "The Twenty-fourth Virginia and Fifth North Carolina regiments deserve to have the word 'immortal' inscribed upon their banners." Among the battles in which Colonel Terry was engaged were the following: First Manassas, Williamsburg, Fredericksburg, second Manassas, Boonsboro, Sharpsburg, Suffolk, Plymouth, Newbern, Drewrys Bluff, Gettysburg, and Dinwiddie Court House. In the famous charge of Pickett's division at Gettysburg, in which so many noble Virginians fell, he was conspicuous for his coolness and gallantry. In all the battles in which he was engaged he was ever ready to take his position in the forefront of the fight and nearest to the flashing of the guns. He was three 74 times severely wounded. In one battle his horse was twice wounded and in another his horse was killed. He was shot through the face at Williamsburg and from that wound he never entirely recovered, the right side of his face being paralyzed as long as he lived.

After the surrender of General Lee at Appomattox, Colonel Terry, having been promoted to be brigadier-general, returned to his home and engaged in mercantile business. While he was thus engaged, Virginia was subjected to the trying and perilous ordeal of reconstruction. She was known as Military District No. 1. Her State government was

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overthrown; her legislative assembly was dissolved; the sacred writ of *habeas corpus* was suspended; her unarmed and defenseless people were subjected to the arbitrary rule of military masters. Carpetbaggers, following in the wake of the Union army, flocked from the North like hungry vultures to feed and fatten upon the substance of our people. Having suffered so much from the devastations of the war and the ravages of reconstruction, Virginia needed the services of her wisest and best men to rehabilitate her and start her upon a new career of development and improvement. Under such circumstances, General Terry was elected in 1869 by the people of Bedford County to represent them in the State Senate. He served them in that capacity eight years most acceptably. While not gifted as a speaker, he had a clear head, discriminating judgment, honest heart, and was universally recognized as a valuable and efficient member. In 1884 he was chosen by the General Assembly as superintendent of the penitentiary, and for two years discharged the difficult and responsible duties of that position with credit to himself and satisfaction to all concerned. In 1886 he was appointed commandant of the Soldiers' Home at Richmond, and remained there for some time, contributing in every way he could to the comfort of the old Confederate veterans, and smoothing, as far as possible, their pathway to the grave. His health having become very feeble, he retired to a little farm in the county of Chesterfield, where he spent the remainder of his days and passed peacefully and quietly away. He was buried in beautiful 75 Hollywood on the banks of the James River, and he was followed to his last resting place not only by his devoted family but by delegations from the Masonic Lodge of which he was a member, from Lee and Pickett Camps, together with a large number of admiring and sorrowing friends. His most distinguishing characteristic was his great modesty. With a war record that was exceptionally brilliant, he was rarely known to make any reference to it. As the Speaker of the House of Burgesses once said of George Washington, "his modesty was only equalled by his merit." His portrait has been placed upon the walls at Lee Camp Hall, that Pantheon of Confederate heroes, alongside of Stuart, Ashby, and other noble cavaliers with whom he rode to battle in the brave days of old.

Chapter VI Elected to the Confederate Congress—Campaign conducted by my friends—The organization of the provisional Government—Personnel of provisional Congress—The Constitution as adopted—Main differences between it and that of the United States—The Constitution and slavery—Some early measures adopted—Slidell and Mason—Organization of first regular Congress—Election of Mr. Davis—An incident in the life of Hannibal—Financial measures—The judiciary—Efforts for peace—The last session—General Lee and the military situation—Return to the law after the surrender—So-called restored Government.

After the first battle of Manassas, upon application of Gen. Jubal A. Early, I was ordered by General Beauregard to report to General Early for duty, and was assigned to his staff as a volunteer aid.

While in camp at Union Mills, not far from Fairfax Court House, in the autumn of 1861, I was elected to represent the Bedford district in the Congress of the Confederate States. There were three candidates besides myself, William M. Treadway of Pittsylvania, William Martin of Henry, and Beverly A. Davis of Patrick. They addressed the people throughout the district, and after they had all spoken at the various places visited by them, some friend of mine would arise in the audience and say, "Gentlemen, you must remember that Mr. Goode is also a candidate for your suffrages. He cannot be here to-day because he is down at the front with the other boys in the army." This simple announcement had more effect than if I had been personally present to represent my own interests, because the hearts of all the people were with their fathers, sons, and brothers at the front. The result was that on the day of election I received a majority, not only of the voters at home, but of those in the army also. By an ordinance of the convention it was provided that the soldiers in the field, temporarily absent from their homes, were entitled to vote. I remained 77 in camp until the 22d of February, 1862, when I took my seat in the Confederate Congress as a member from my district.

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Since the termination of the war between the States much has been written about the Southern Confederacy from a military standpoint, but comparatively little attention has been paid to its civil history.

As I was a member of the Confederate Congress from the organization to the dissolution of the Confederate States Government under what was called the permanent Constitution, I propose to give my recollections of the personnel and proceedings of that body. Before doing so, however, it may perhaps be a matter of interest to make some reference to the organization of the provisional Government. The provisional Congress of the seceded States, called at the instance of South Carolina, assembled at Montgomery, Alabama, on the 4th day of February, 1861. Seven States were represented when the Congress was organized—Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and Texas. Subsequently delegates appeared and were admired from Arkansas, North Carolina, Tennessee, and Virginia. The Congress was organized by the election of Howell Cobb of Georgia as its presiding officer and J. J. Hooker of Alabama as its secretary. Mr. Cobb had been Speaker of the United States House of Representatives during the 31st Congress, and enjoyed the reputation of an able and accomplished parliamentarian. Mr. Hooker was recognized throughout the South as a gentleman of rare literary attainments.

Of the personnel of this body it is no exaggeration to say that it has rarely, if ever, been surpassed for intellectual vigor and forensic ability. Chilton and Curry of Alabama; Morton of Florida; Toombs, Stephens, and Hill of Georgia; Conrad and Kenner of Louisiana; Harris of Mississippi; Rhett and Barnwell of South Carolina; Reagan and Wigfall of Texas; Garland of Arkansas; Davis and Smith of North Carolina; Jones and House of Tennessee, and Tyler, Preston, Hunter, Mason, Rives, and others of Virginia, would compare favorably with the most gifted and distinguished in any deliberative body that has assembled in this or any other country.

After the adoption of rules for the government of the Congress the first subject that engaged their attention was the formation of a temporary or provisional Government

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for the States represented. A provisional Constitution was unanimously adopted on the 8th of February, 1861, and on the following day the Congress went into the election of officers, when Mr. Jefferson Davis was elected President without a dissenting voice, and Mr. Alexander H. Stephens was in like manner elected Vice-President. Mr. Davis was duly inaugurated on Monday, the 18th of February. His Cabinet was composed of the following members: Robert Toombs of Georgia, Secretary of State; Leroy P. Walker of Alabama, Secretary of War; Charles G. Memminger of South Carolina, Secretary of the Treasury; John H. Reagan of Texas, Postmaster-General; Stephen R. Mallory of Florida, Secretary of the Navy, and Judah P. Benjamin of Louisiana, Attorney-General.

On the 11th day of March, 1861, the Constitution for the permanent Government of the Confederate States was unanimously adopted. From an examination of that instrument, it will be seen that it was based upon the general principles enunciated in the Federal Constitution adopted at Philadelphia in 1787, and the first twelve amendments thereto; but several important changes were made. The preamble declares as follows: "We the people of the Confederate States, each State acting in its sovereign and independent character, in order to form a permanent Federal Government, establish justice, insure domestic tranquillity and secure the blessings of liberty to ourselves and our posterity,—invoking the favor and guidance of Almighty God,—do ordain and establish this Constitution for the Confederate States of America." Here, it will be observed, is a distinct declaration that the Constitution was formed by the States as States in their sovereign capacity, and not by all the people in the aggregate. There is also a solemn recognition of the existence of the Omnipotent Ruler of the universe, who controls the destinies of nations and of men.

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Section 2 of Article 1 provides that the House of Representatives shall have the sole power of impeachment, *except that any judicial or other Federal officer, resident and acting solely within the limits of any State, may be impeached by a vote of two-thirds of*

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both branches of the legislature thereof. But Section 3 of the same Article provides that the Senate shall have the sole power to try all impeachments.

Section 6 of Article 1 provides that *Congress may by law grant to the principal officer in each of the Executive Departments a seat upon the floor of either House, with the privilege of discussing any measures appertaining to his Department.*

Section 7 of Article 1 provides that *the President may approve any appropriation and disapprove any other appropriation in the same bill. In such case he shall in signing the bill designate the appropriations disapproved, and shall return a copy of such appropriations, with his objections, to the House in which the bill shall have originated; and the same proceedings shall then be had as in case of other bills disapproved by the President.*

Section 8 of Article 1 provides that *no bounties shall be granted from the Treasury; nor shall any duties or taxes on importations from foreign nations be laid to promote or foster any branch of industry.* The same section provides that *nothing contained in the Constitution shall ever be construed to delegate the power to Congress to appropriate money for any internal improvement intended to facilitate commerce; except for the purpose of furnishing lights, beacons and buoys, and other aid to navigation upon the coasts, and the improvement of harbors and the removal of obstructions in river navigation, in all which cases such duties shall be laid on the navigation facilitated thereby as may be necessary to pay the costs and expenses thereof.*

Section 9 of Article 1 provides that *the importation of negroes of the African race from any foreign country, other than the slave-holding States and Territories of the United States of America, is hereby forbidden; and Congress is required to pass such laws as shall effectually prevent the same. Congress shall also have power to prohibit the introduction* 80 *of slaves from any State not a member of or Territory not belonging to the Confederacy.* The same section provides that *Congress shall appropriate no money from the Treasury except by a vote of two-thirds of both Houses taken by yeas and nays, unless it be asked*

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and estimated for by some one of the heads of Departments, and submitted to Congress by the President; or for the purpose of paying its own expenses and contingencies; or for the payment of claims against the Confederate States, the justice of which shall have been judicially declared by a tribunal for the investigation of claims against the Government, which it is hereby made the duty of Congress to establish. The same section provides that Congress shall grant no extra compensation to any public contractor, officer, agent or servant, after such contract shall have been made, or such service rendered.

Section 1 of Article 2 provides that the Executive power shall be vested in a President of the Confederate States of America. He and the Vice-President shall hold their offices for the term of six years, *but the President shall not be reeligible.*

Section 2 of Article 2 provides that *the principal officer in each of the Executive Departments, and all persons connected with the diplomatic service, may be removed from office at the pleasure of the President or other appointing power, when their services are unnecessary, or for dishonesty, incapacity, inefficiency, misconduct, or neglect of duty; and when so removed, the removal shall be reported to the Senate together with the reasons therefor.* The same section provides that *no person rejected by the Senate shall be reappointed to the same office during the ensuing recess.*

Under Article 3 the judicial power was not extended to controversies between citizens of the several States, and they were not permitted to sue each other in the Federal courts.

Section 1 of Article 4 provides that *the citizens of each State shall have the right of transit and sojourn in any State of the Confederacy with their slaves and other property, and the right of property in said slave shall not be thereby impaired.*

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Section 3 of Article 4 provides that other States may be admitted into the Confederacy by a vote of *two-thirds of the whole House of Representatives and two-thirds of the Senate, —the Senate voting by States.* The same section provides that in all territory that may be

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acquired by the Confederate States, *the institution of negro slavery shall be recognized and protected by Congress and the Territorial Government; and the inhabitants of the several Confederate States and Territories shall have the right to take to such Territory any slaves lawfully held by them in any of the States or Territories of the Confederate States.*

Article 5 provides that upon the demand of any *three States* legally assembled in their several conventions the Congress shall summon a convention of all the States to take into consideration such amendments to the Constitution as the States shall concur in suggesting at the time when the said demand is made; and should any of the proposed amendments to the Constitution be agreed on by the said convention—voting by States—and the same be ratified by the legislatures of *two-thirds* of the several States, or by conventions *in two-thirds thereof*, as the one or the other mode of ratification may be proposed by the General Convention, they shall thenceforward form a part of the Constitution.

The foregoing are some of the more prominent and important changes made from the Constitution of the United States by the Congress at Montgomery. I submit that, in the main, they were eminently wise and conservative.

Mr. Davis, in referring to the Confederate Constitution, remarks:

With regard to slavery and the slave trade, the provisions of the Constitution furnished an effective answer to the assertion so often made that the Confederacy was founded on slavery and intended to perpetuate and extend it. Property in slaves already existing was recognized and guaranteed just as it was by the Constitution of the United States, and the rights of such property in the common territories were protected against any such hostile discrimination as had been attempted in the Union. But the extension of slavery in the only practical sense of that phrase was more distinctly and effectually precluded by the Confederate than by the Federal Constitution. The further importation of negroes from

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any country, other than the slave-holding States and Territories of the United States, was peremptorily prohibited; and Congress was further endowed with the power to prohibit the introduction of slaves from any State or Territory not belonging to the Confederacy.

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Mr. Stephens, in speaking of the Constitution, said:

The whole document negatives the idea which so many have been so active in endeavoring to put in the enduring form of history, that the convention at Montgomery was nothing but a set of conspirators whose object was the overthrow of the principles of the Constitution of the United States, and the creation of a great slave oligarchy instead of the free institutions thereby secured and guaranteed.

Under authority conferred by the Congress, President Davis, on the 15th day of February, appointed three Commissioners to the United States, with full power to negotiate for the settlement of all matters of joint property within the limits of the Confederate States, and all joint liabilities upon principles of right, justice, equity, and good faith. He also appointed, by authority of Congress, a Commissioner to represent the Confederate States in England and France. Laws were enacted to exempt certain goods from duty; to modify the navigation laws; to punish persons convicted of being engaged in the slave trade; to establish additional ports of entry; to perfect the postal system; to provide money for the Government, and to raise military forces. The act for raising money authorized the President to borrow \$15,000,000, payable in ten years at eight per cent. interest, and imposed an export duty on cotton to create a fund for paying the principal and interest of the loan. The Military Bill provided for the employment of the militia, military, and naval forces of the Confederate States, and authorized the President to ask for and accept the services of not exceeding one hundred thousand volunteers to serve for twelve months, "to secure the public tranquillity and independence against threatened assault."

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At the session of the provisional Congress held at Montgomery in obedience to the proclamation of the President, on the 29th of April, 1861, laws were passed recognizing the state of war existing with the United States, authorizing the President to issue letters of marque and reprisal, and to accept the services of soldiers in the Confederate Army without regard to the place of enlistment. A bill was passed authorizing the issue of fifty millions of dollars in bonds, or in lieu of these bonds, twenty millions of Treasury notes of 83 small denominations, without interest. The produce loan was originated upon the idea that cotton could be made a basis of security, the Government proposing by this measure to take a loan in produce from the planters and issuing its bond in payment. Within a short time the whole amount of the loan was taken. A tariff bill was also passed, but foreign commerce was so effectually cut off by the blockade, that little revenue was raised from that source. At this session a resolution was adopted authorizing the President to cause the several Executive Departments of the Government, with their archives, to be removed to Richmond, Virginia, at such time as he might determine prior to the 20th of July, 1861. On the day mentioned, the provisional Congress assembled in the Hall of the House of Delegates at Richmond. In his message of that date, Mr. Davis explained the cause of the removal to be that the aggressive movements of the enemy required prompt, energetic action; that the accumulation of his forces on the Potomac River sufficiently demonstrated that his first efforts were to be directed against Virginia, and from no point could necessary measures for defense be so effectually provided as from her own capital. The Secretary of War recommended the enlistment of three hundred regiments in addition to the one hundred and ninety-four regiments and thirty batteries already accepted. Congress provided for four hundred thousand additional troops, and the issue of one hundred millions in bonds, and the same amount in Treasury notes. A direct tax assessed by States was imposed, which it was supposed would yield fifteen millions, but this measure and all the other financial measures which had been devised only provided a little more than two hundred millions for the prosecution of the war. The States, however, in their separate

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capacity made large appropriations, and individuals made generous donations for the equipment of volunteers.

In accordance with authority conferred by the provisional Congress, the President appointed, in October, 1861, John Slidell and James M. Mason as diplomatic representatives to France and England. Clothed with full power for making treaties, and with all the necessary credentials, they went as 84 passengers on board a British merchant vessel called *The Trent*, lying at Havana, and sailed for England. Captain Charles Wilkes, of the U. S. Navy, commanding the U. S. sloop of war *San Jacinto*, intercepted *The Trent* on the high seas, and against the earnest protest of her captain forcibly transferred Messrs. Mason and Slidell to the *San Jacinto*. This action on the part of Captain Wilkes produced a decided sensation, and involved his Government in a disagreeable dilemma. Mr. Seward, Secretary of State, immediately wrote to Mr. Adams, U. S. Minister at London, that in the capture of Messrs. Mason and Slidell on board a British vessel, Captain Wilkes had acted without any instructions from his Government, and expressed the hope that the Government of Great Britain would consider the subject in a friendly temper. In the mean time, Earl Russell informed Lord Lyons that intelligence of a very grave nature had reached Her Majesty's Government concerning "an act of violence which was an affront to the British flag, and a violation of international law." In answer to Earl Russell's communication, Mr. Seward admitted the facts to be as stated, and explained that Captain Wilkes had acted "without any direction or instruction, or even foreknowledge, on the part of the United States Government." The result was that Messrs. Mason and Slidell, who, since their capture, had been confined at Fort Warren, were liberated, and restored to the protection of the British flag.

The last session of the provisional Congress commenced at Richmond on the 18th of November, 1861, and terminated on the 17th of February, 1862. On the day following the first regular Congress of the Confederate States, elected under the permanent Constitution, met at Richmond. Alabama, Arkansas, Florida, Georgia, Kentucky, Missouri, North Carolina, South Carolina, Tennessee, Texas, and Virginia were represented.

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The Cherokee, Choctaw, Creek, and Seminole Indians, and the Territory of Arizona, were also represented. The Senate was organized by the election of R. M. T. Hunter of Virginia as President *pro tempore*, and J. H. Nash of South Carolina as Secretary. In the House of Representatives, Thomas S. Bocock of Virginia 85 was elected Speaker, and Emmett Dixon of Georgia was elected Clerk. If there should now be a roll call of the Confederate Congress, very few of its members would answer to their names. Of the twenty-six Senators, there is not a survivor, and nearly all the members of the House of Representatives have been numbered with those "that were but are not." In the list of members are to be found some immortal names that "were not born to die." The reputation for statesmanship and oratory of such Senators as William L. Yancey of Alabama; Benjamin H. Hill of Georgia; R. M. T. Hunter and William Ballard Preston of Virginia; and of such Representatives as Augustus H. Garland of Arkansas; Julian Hartridge of Georgia; Henry C. Chambers of Mississippi; W. N. H. Smith of North Carolina; William Porcher Miles of South Carolina; Henry S. Foote of Tennessee; Charles W. Russell, James P. Holcombe, and John B. Baldwin of Virginia, will long be held in grateful remembrance by their admiring countrymen.

At a regular election under the Constitution for a permanent Government, held on the 6th of November, 1861, Mr. Jefferson Davis was elected President for a term of six years. He was formally inducted into the office on the 22d of February, 1862, and delivered his inaugural address before an immense multitude assembled in the Capitol Square at Richmond. His Cabinet was composed as follows: Judah P. Benjamin of Louisiana, Secretary of State; Thomas H. Watts of Alabama, Attorney-General; Charles G. Memminger of South Carolina, Secretary of the Treasury; Stephen R. Mallory of Florida, Secretary of Navy; John H. Reagan of Texas, Postmaster-General, and George W. Randolph of Virginia, Secretary of War.

On the 25th of February, 1862, Mr. Davis communicated to Congress his first message under the permanent Constitution. At an early day in that session, Mr. Foote of Tennessee introduced a resolution declaring against the defensive policy in the conduct of the war,

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and urging the adoption of the most aggressive measures. This resolution was warmly supported by Mr. Boyce of South Carolina. In the course of his impassioned speech, he quoted the saying of 86 Mirabeau, that in a revolution three things are necessary—"audacity, audacity, audacity." During the debate a very amusing scene occurred in which Mr. Foote, and Mr. Albert Gallatin Jenkins of Virginia, were the participants. Mr. Foote, in denouncing what he called the Fabian policy of the Administration, exclaimed, "Mr. Speaker, if General Albert Sidney Johnston had fought a battle at Bowling Green, Kentucky, instead of retiring before the enemy, our independence would have been achieved, and while I now speak to you, peace would be covering the whole country like a wedding garment." When he sat down Mr. Jenkins arose, and among other things said, "Mr. Speaker, while listening to the distinguished gentleman from Tennessee, I was very forcibly reminded of an incident in the life of Hannibal. It is said that on one occasion Hannibal visited Athens, and was entertained at the house of a friend. His friend informed him that there would be a lecture that evening at the Areopagus, and invited him to attend. Hannibal consented to do so, and it so happened that the lecturer took for his theme the life and military character of Hannibal. When the lecture was concluded, and they were leaving the place, his friend asked Hannibal what he thought of the lecture. The reply of Hannibal fits the gentleman from Tennessee like that wedding garment of which he spoke." At this point Mr. Foote became very much excited, and advanced upon Mr. Jenkins, exclaiming, "I demand that the gentleman from Virginia tell this House instantly what Hannibal's reply was." Mr. Jenkins stood smiling and calmly stroking his beard, and Mr. Foote being unable to restrain himself longer, cried out in a loud voice, "I know what Hannibal's reply was. Hannibal said the lecturer was a d—d old fool. Now I demand to know, and I wish to have a categorical answer, does the gentleman from Virginia intend to apply that language to me?" Mr. Jenkins replied as follows: "Mr. Speaker, not being a classical scholar like the distinguished gentleman from Tennessee, I did not remember exactly what Hannibal's reply was; but I thought it was something like this—that as a general rule civilians are not very competent military critics." Mr. Foote, bowing most gracefully, 87 said, "Your explanation is entirely satisfactory, sir," and went back to his

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seat. The debate was continued for some time, and the resolution was finally laid upon the table.

Perhaps the most distinguished member of the Congress was ex-President John Tyler, who had filled with credit and ability many of the most responsible and honorable positions in the gift of his countrymen. He was not only a great orator but a most persuasive and effective debater. He excelled as an extemporaneous speaker. In private circles and on social occasions he was a charming conversationalist. He lived at the Exchange Hotel, and after dinner, with his friends around him, he sometimes sat on the bridge connecting the old Exchange Hotel and the Ballard House, where he instructed and charmed them with his delightful reminiscences. On one occasion, I remember, he gave a most thrilling account of an adventure while he was the occupant of the White House. He said that Commodore Stockton, who commanded the *Princeton*, invited himself, his Cabinet, and other friends to go down the Potomac River and witness the trial of a new gun known as the "Peacemaker." Among those friends were Mr. Gardiner of New York, and his accomplished daughter, Miss Julia, whom the President afterwards married. He said the party went aboard at Washington, and after they had gone down the river below Alexandria he received a message from the Commodore to come on deck and witness the trial of the gun; but, being engaged, as he expressed it, in a delightful *tête-à-tête* with Miss Gardiner, he was reluctant to leave and sent word to the Commodore to go on and not wait for him. The big gun was fired and a terrible explosion took place. It killed the Secretary of State, Abel P. Upshur; the Secretary of the Navy, Thomas W. Gilmer, and Mr. Gardiner. It also knocked down many of the bystanders, and among them Thomas H. Benton, Senator from Missouri. Seven months after the occurrence Mr. Tyler married Miss Gardiner in the city of New York, and she was called the bride of the White House; but Mrs. Cleveland is the only lady in the land who ever married a President in the Executive Mansion.

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On the 24th of February a resolution was unanimously adopted declaring it to be the unalterable determination of the people of the Confederate States never again to affiliate politically with the people of the United States. At this session of Congress there was much discussion in both Houses as to the disposition of the cotton and tobacco produced by the Southern planters, so as to prevent them from falling into the hands of the enemy. In the Senate a bill was passed making it the duty of military commanders to destroy all cotton and tobacco that could not safely be removed beyond the reach of the Federal forces. In the House a resolution was adopted by which the planters were advised to devote themselves to the production of provisions, instead of the cultivation of cotton and tobacco. As another important measure of defense, a bill was passed authorizing the impressment of negroes for the purpose of working on fortifications.

The second session of the Confederate Congress commenced on the 18th of August, 1862. Among the bills introduced was one extending the operation of the conscript law to all citizens under forty-five years of age. After an animated discussion in both Houses, in which the ablest debaters participated, the bill was finally passed by a decisive majority. Several other important bills were passed, such as the bill to encourage the manufacture of shoes and clothing for the Army; the bill to raise troops in Kentucky and Missouri; the bill to reduce the interest on the funded debt of the Confederate States, and to authorize the issue of six per cent. convertible bonds.

When the Congress assembled in the third session on the 12th of January, 1863, the President called attention to the Emancipation Proclamation which had been issued by President Lincoln. There was much earnest discussion of the Proclamation, and it was generally regarded as a measure calculated, if not intended, to produce servile insurrection at the South; but it should be stated to the credit of the negro population, that their behavior under all circumstances was most praiseworthy.

During this session it became apparent that the finances, which were necessarily dependent upon the success of the Confederate arms in the field, could not be managed

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so as to 89 prevent the depreciation of the currency. The expenses of the Government had largely increased; the public debt had grown to enormous proportions; and the Treasury Department experienced great difficulty in providing the sinews of war. An act was passed authorizing the impressment of produce necessary for the use of the Army; but the enforcement of this act produced much excitement and discontent. In this extremity, President Davis, in obedience to a resolution of Congress, issued an address to the people, in which he made an earnest appeal “in behalf of the brave soldiers now confronting the enemy, and to whom the Government is unable to furnish all the comforts they so richly merit.” This appeal met a generous response from the Governors of the several States, and from the people generally.

On the 18th of March, 1863, the Senate passed a bill to be entitled an “Act to organize the Supreme Court of the Confederate States.” It provided “that the Supreme Court of the Confederate States shall consist of a Chief Justice and four Associate Justices, any three of whom shall constitute a quorum, and shall hold annually at the seat of government two sessions, the one commencing the first Monday of January, the other the first Monday of August,—the respective sessions to continue until the business of each session shall be disposed of.” This bill was duly communicated to the House of Representatives, and referred to the Committee on the Judiciary; but it seems that no action on it was ever taken by that body. The failure to establish a Supreme Court for the Confederate States has excited interest, and it has been suggested that the failure was due to the fact that a large majority of the members of the Confederate Congress had been reared in the States' Rights school of politics, and that they believed implicitly in the resolutions of 1798 and 1799, and in Mr. Madison's report, which opposed the idea of a common arbiter between the States, and announced the doctrine that each State acceded to the compact as a State, and “must judge for itself as well of infraction as of the mode and measure of redress.” On the other hand, it has been contended that the exigencies of the situation did not immediately require the establishment of a Supreme Court; that 90 all the energies of the Congress were entirely devoted to the all-absorbing question of defense, and that the

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members had no time to consider judicial measures—in other words, that the maxim of the hour was “*Inter arma silent leges.*” It is undoubtedly true that there were differences of opinion between the disciples of the Jeffersonian and the Hamiltonian schools as to the power to be conferred upon the Supreme Court. There was a well-founded rumor that Yancey of Alabama and Hill of Georgia, in discussing these differences in a secret session of the Senate, became involved in a serious personal altercation. But I cannot agree with those who believe that the differences of opinion referred to operated to defeat the creation of a Supreme Court. The men who composed the Confederate Congress were, as a general rule, the same men who had framed the provisional and permanent Constitutions. There can be no question that it was the intention of the framers of the two Constitutions to provide for the establishment of a Supreme Court.

Article 3 of the provisional Constitution provides that “the judicial power of the Confederacy shall be vested in one Supreme Court, and in such inferior courts as are herein directed, or as the Congress may from time to time ordain and establish. The Supreme Court shall be constituted of all the District Judges, a majority of whom shall be a quorum, and shall sit at such times and places as the Congress shall appoint.”

Article 3 of the permanent Constitution provides that “the judicial power of the Confederate States shall be vested in one Supreme Court, and in such inferior courts as the Congress may from time to time ordain and establish.”

My recollection is that the failure of the House of Representatives to consider the bill passed by the Senate to organize the Supreme Court of the Confederate States was due entirely to the fact that the military situation demanded all their time and attention. The city of Richmond, the Capital of the Confederacy, was besieged on all sides by large armies. Every afternoon the balloons of the enemy could be seen hovering over the city, and it frequently happened that the flash of hostile guns could be seen in every direction. That was no 91 time to deliberate about the organization of courts, and the House naturally postponed the consideration of that subject until it was determined by

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the arbitrament of war whether or not the Confederacy should be established as an independent government. When the Confederate Congress assembled in their fourth session on December 7, 1863, they fully recognized the gravity of the situation, and immediately addressed themselves to the task of filling up the depleted ranks of the armies. A bill was passed repealing all former laws which permitted the employment of substitutes, and the Conscription Act, after a protracted discussion, was also passed. This act provided that all men between eighteen and fifty-five years of age should be subject at once to military duty, and required to report for that purpose. During the year 1864 there were many indications that the people of the North and the South were heartily sick of the war, and earnestly desired that the fratricidal strife should cease. Peace resolutions were passed by the legislatures of Georgia and North Carolina. In the House of Representatives, resolutions were offered by Mr. Wright of Georgia and Mr. Leach of North Carolina, the first of which proposed a meeting of representatives of all the States, and the second proposed an armistice of ninety days for the purpose of negotiation. A special commission, consisting of three eminent gentlemen—Clay of Alabama, Holcombe of Virginia, and Thompson of Mississippi—was appointed for the purpose of meeting such Northern statesmen as might be willing to discuss the subject of peace. They met Mr. Horace Greeley at Niagara Falls, but his instructions were of such a character as entirely to defeat the object of the conference.

The Confederate Congress met in its last session on the 7th of November, 1864. In his message the President, among other things, recommended a radical modification of the Act of February 17, 1864, which authorized the employment of slaves in the Army for certain purposes, such as teamsters, cooks, etc. He suggested that the Government should acquire by purchase the absolute property in the slaves to be enrolled, and that they should be emancipated as a reward for faithful service. He recommended that the enrollment 92 on this plan should be increased to forty thousand. No definite action was taken upon this recommendation. At this session bills were passed to correct the evils of exemptions and details; to raise revenue by direct taxation, and to continue the tax on

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incomes and salaries. Mr. Davis sent his last message to Congress on the 13th of March, 1865. Notwithstanding the perils of the situation, he maintained his lofty bearing, and without any apparent misgiving as to the future, proceeded to recommend such measures as he deemed expedient to secure the independence of the Confederacy. Among other things, he proposed legislation for obtaining army supplies, for the impressment of provisions, the employment of the militia, and the suspension of the writ of *habeas corpus*. All his recommendations, with some modifications, were adopted, and on the 18th of March, 1865, the Confederate Congress adjourned to meet no more. On the 15th of March, 1865, an order was issued by the Adjutant-General's office authorizing the raising of a company, or companies, of negro soldiers under the provisions of the Act of Congress, approved March 13, 1865. One or two companies were recruited under this act, but as the downfall of the Confederacy followed so soon after the experiment had been determined upon, no opportunity was afforded to test its wisdom or expediency.

It is due to the truth of history to correct certain misapprehensions which exist to some extent in the public mind at the South. It is believed by some that if the Confederate authorities had exhibited real statesmanship, an arrangement might have been made by which the slave owners would have been paid for their slave property. There never was a greater mistake. This is abundantly shown by the results of the Hampton Roads Conference. As is well known, President Lincoln and Secretary Seward, on the morning of the 3d of February, 1865, met on board a steamer at Fortress Monroe, Messrs. Alexander H. Stephens, R. M. T. Hunter, and John A. Campbell, who had been appointed Commissioners by President Davis. The object of the conference was to ascertain upon what terms and in what way the war could be terminated. The report of the Commissioners, the message of 93 President Davis, and the message of President Lincoln, show conclusively that the United States authorities refused to enter into negotiations with the Confederate States, or any one of them separately, and that no truce or armistice would be granted without a satisfactory assurance, in advance, of a complete restoration of the authority of the United States. In the course of the conference,

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the subject of slavery was discussed informally. Mr. Lincoln said he should be in favor, individually, of the Government paying a fair indemnity to the owners for the loss of their slaves, but on this subject he said *he could give no assurance and enter into no stipulation*.

It has also been asserted that General Lee, a short time before the collapse of the Confederacy, advised the Confederate authorities that further resistance was useless, and that he recommended the cessation of hostilities upon the best terms that could be obtained. I am satisfied from my own personal knowledge that this is also a mistake. A few days before the final adjournment of the Congress, on the 18th of March, 1865, I received a message from Mr. Davis, through a member of his staff, that he desired to see me on important business at his office. I responded at once, and upon my arrival I found Mr. Davis and General Lee in consultation. After an exchange of salutations Mr. Davis said he had sent for me to request my opinion as to the willingness of the people of Virginia to submit to further demands upon them for supplies of food and clothing, which were absolutely necessary to maintain the army in the field. After some general conversation on the subject, in which General Lee participated, I replied to the inquiry of the President by saying that, while I believed the people of Virginia were prepared to make still further sacrifices in support of the cause they held so dear, I preferred that the other representatives from Virginia should be consulted, and suggested that they should be invited to the conference. This suggestion was adopted, and all the Virginia representatives—fifteen in number—by the invitation of the President, met him, his Cabinet, and General Lee, in the afternoon of the same day at four o'clock.

At this meeting there was a full and free interchange of opinion, and all the representatives concurred in saying that 94 the people of Virginia would be found ready and willing to meet any requisition that might be made upon them, in the same spirit of loyalty and devotion that had characterized them since the commencement of the struggle. During the interview General Lee explained the situation fully from a military standpoint. He referred to the length of the line he was obliged to defend, to the number of effective men then under his

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command, to the great scarcity of food for his soldiers and forage for his animals; but he did not say, nor did he intimate in any manner whatever, that in his opinion the cause was lost, and that the time for surrender had come. He was a soldier, and doubtless felt that it was not his province to volunteer advice to the political department, but to make the best fight he could with the means the Government was able to place at his disposal. During the progress of the war he published battle orders in which he expressed confidence in the final result, and in the correspondence between General Grant and himself he expressed the opinion the emergency had not arisen to call for the surrender of his army.

After the surrender of General Lee at Appomattox on the 9th of April, 1865, I went to Christiansburg, Va., and witnessed the disbandment of the forces commanded by General Echols. I then went across the country to Greensboro, N. C., but when I reached that place I found that General Johnston had already surrendered his army to General Sherman. When I called upon General Johnston in his tent, he said he would give me the same advice he had given on the day before to Senators Hayne and Henry of Tennessee, which was that the members of the Confederate Congress should remain in the background until it was known what measures would be adopted as to them by the Administration at Washington; that all Confederate soldiers would be protected by their paroles but the President had just issued a proclamation in which he declared his purpose to make treason odious, and he did not know how the members of the Confederate Congress would be dealt with. After some discussion Of the situation with him, I determined to return to my home in Bedford and await developments. I found the town occupied 95 by two companies of Federal cavalry and I went about my customary vocation. There was no lack of law business to be transacted, but there was no money in circulation, and in order to support my family I found it necessary to accept in the way of fees for my services, flour, meal, bacon, chickens, butter, vegetables, etc.

In this connection it may be proper to say that the General Assembly of the so-called restored Government of Virginia met at Wheeling in 1863, and provided for the election of delegates to a convention to meet in the city of Alexandria on the 13th of February,

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1864. The delegates to this convention having been elected on the 21st of January, 1864, assembled in the city of Alexandria on the day named, and adopted a Constitution on the 7th day of April, 1864. In the mean time, Francis H. Pierpont, claiming to be the Governor of Virginia, removed the seat of government from Wheeling to Alexandria. He remained at Alexandria until the evacuation of Richmond by the Confederate forces in April, 1865, when he removed his seat of government to that city. His jurisdiction extended over a very few counties which were occupied by the Federal troops in eastern Virginia, and his legislature was not larger than an ordinary town council, and yet they presumed to speak for Virginia and to give her consent under the Constitution to the creation of the new State of West Virginia. The history of the war does not furnish a more striking example of presumption and usurpation. On the 9th of May, 1865, President Johnson issued an order declaring that all acts and proceedings of the organizations of which Jefferson Davis, John Letcher, and William Smith were the chiefs should be treated as null and void. Although Pierpont was recognized by the Federal Government as the legally constituted Governor of Virginia, he was, to all intents and purposes, a military satrap and altogether subject to military orders. Virginia was Military District No. I.

Under authority of the act of Congress passed on the 2d of March, 1867, "to provide for the more efficient government of the Rebel States," from April 3, 1865, to January 28, 1870, when civil government was restored, the following 96 commanding generals exercised military rule with headquarters at Richmond: Godfrey Weitzel, E. O. C. Ord, Alfred H. Terry, John M. Schofield, George Stoneman, Alexander S. Webb, and R. S. Canby.

Chapter VII Removal to Norfolk and admission to its bar—My first appearance in an interesting suit—Elected to the House of Delegates—Personnel of the body—Reconstruction—The Underwood Constitution—Noble effort of Conservative members to save State from disgrace and ruin—The Disfranchising and Test Oath clauses—The convention in Richmond in December, 1867.

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In September, 1865, I removed to the city of Norfolk with a view of practising my profession. I was an entire stranger in that community, and I found there an able, learned, and accomplished bar, consisting of such men as Tazewell Taylor, John S. Millson, George P. Scarborough, Charles B. Duffield, Charles Sharp, George Blow, Richard H. Baker, W. H. C. Ellis, William H. Burroughs, John J. Burroughs, James W. Hinton, W. M. Chaplain, William Baker, L. D. Starke, Richard Walke, W. W. Old, W. B. Martin, W. H. White, R. B. Tunstall, W. G. Elliott, and John S. Tucker.

Soon after my arrival in Norfolk, I sauntered one morning into the court-room and found the court and jury engaged in the trial of a very interesting and exciting case of unlawful detainer, in which a widow was the plaintiff and a very obnoxious carpetbagger was the defendant. The venerable Judge Richard H. Baker was presiding as judge of the court. His son, Richard H. Baker, counsel for the plaintiff, very kindly invited me to take a part, and proposed that I should make the closing argument. Of course I accepted his proposition with alacrity, as it afforded an opportunity to make my debut at the bar. The jury promptly returned a verdict for the widow. This was my first introduction to the people of Norfolk, and for it I feel that I am under lasting obligations to my friend Mr. Baker.

In this connection I must be permitted to make my most profound acknowledgments to the noble and patriotic people of Norfolk, Portsmouth, and the counties composing the 98 Second Congressional district of Virginia for their uniform courtesy and kindness to me during a long series of years. Coming among them an entire stranger without any claims whatever upon their patronage and support, they took me by the hand and extended to me such a cordial recognition that I shall ever feel bound to them by ties stronger than bands of steel. Whenever I return to the city by the sea I am much gratified to observe so many evidences of progress and improvement. Unless I am greatly mistaken in the signs of the times, the day is not distant when our long-cherished dreams will be fully realized and she will be hailed throughout all our borders as the great commercial emporium of Virginia and the South.

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In the winter of 1866–7 I was elected by the people of Norfolk to fill a vacancy in the House of Delegates occasioned by the resignation of W. H. C. Ellis, Esq., and I took my seat in that body on the 5th day of December, 1866. John B. Baldwin was Speaker of the House, and that legislature has ever since been known as the Baldwin legislature. He was a man of vigorous intellect, commanding presence, and genial manners. It is not surprising that such a man should wield a powerful influence over his associates in the legislature.

Among its more prominent members, besides the Speaker, may be mentioned James Marshall, W. W. Crump, Charles Herndon, Z. Turner, F. N. Watkins, W. M. Cabell, A. M. Keiley, and John T. Seawell.

As is well known, an act was passed by the Congress of the United States on the 2d of March, 1867, entitled “An Act to provide for the more efficient Government of the Rebel States.”

On the 23d of March, 1867, a supplemental act was passed by Congress which provided for the election of members to a convention to establish a new Constitution for Virginia. The convention assembled in Richmond on the 3d day of December, 1867, and proceeded to frame a Constitution commonly known as the Underwood Constitution. That Constitution was framed by aliens to the Commonwealth and newly emancipated slaves. The convention consisted of 105 99 members, of whom 72 were Radicals and 33 were Conservatives. On the Radical side there were 24 negroes, 14 white Virginians, 13 New Yorkers, 1 member each from Pennsylvania, Ohio, Maine, Vermont, Connecticut, South Carolina, Maryland, and the District of Columbia; 2 from England and one each from Ireland, Scotland, Nova Scotia, and Canada. The convention organized by the election of a New Yorker as president, a Marylander as secretary, a Marylander as sergeant-at-arms, an Irishman from Baltimore as stenographer, an assistant clerk from New Jersey, while two colored men were appointed doorkeepers. A minister from Illinois was appointed

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chaplain. The page boys, with one exception, were colored or sons of Northern men, and the clerks of the committees, with two or three exceptions, were Northern men or negroes.

The Conservative members, although few in number, stood together in solid phalanx and made a noble effort to save the State from the threatened disgrace and ruin. Among the most prominent of them were John L. Marye, Eustace Gibson, James M. French, William McLaughlin, J. C. Gibson, William L. Owen, and James C. Southall.

The act of Congress provided that the President of the United States might, at such time as he should deem best, submit the Constitution to the voters for ratification or rejection and might also submit to a separate vote such provisions of said Constitution as he should deem best. In his proclamation of submission, the President directed separate votes to be taken on the two most obnoxious clauses of the new Constitution, the one known as the Disfranchising Clause and the other as the Test Oath Clause. Under the proclamation of the President and the orders of the military commander of District No. 1, an election was held on the 6th of July, 1869, which resulted as follows: For the Constitution, 210,585 votes; against the Constitution, 9, 136 votes. For the Disfranchising Clause, 84,410; against it 124,360. For the Test Oath Clause, 83,458; against it 124,715. The whole registered white vote was 125,114. The whole registered colored vote was 97,205. It will thus be seen that the colored people voted with great unanimity to disfranchise the whites.

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The action of President Grant in submitting the two clauses referred to to a separate vote of the people was undoubtedly due to certain gentlemen who will be known in history as the famous Committee of Nine. That Committee consisted of A. H. H. Stuart, John B. Baldwin, John L. Marye, James F. Johnson, W. T. Sutherlin, Wyndham Robertson, William L. Owen, James Neeson, and J. F. Slaughter. They have all passed away, but their earnest and patriotic efforts in behalf of the people of Virginia will never be forgotten.

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At the same election in which the new Constitution was ratified, there was also an election held for Governor, Lieutenant-Governor, and Attorney-General. At this election there were only two tickets in the field—the Radical ticket, headed by H. H. Wells, and the Liberal Republican ticket, headed by Gilbert C. Walker. The vote was for Walker, 119,535; for Wells, 101,204. John F. Lewis was elected Lieutenant-Governor in opposition to J. D. Harris, colored, and James C. Taylor was elected Attorney-General in opposition to Thomas R. Bowden. The nomination of the Walker ticket was brought about by a split in the Radical Convention. After it became apparent that Wells would be nominated, a few prominent men, opposed to him, withdrew from the convention and placed another ticket in the field headed by Gilbert C. Walker for Governor.

After the election of members to the Underwood Convention, Old Line Whigs and Old Line Democrats in Virginia, recognizing the necessity of sinking their past party differences and uniting for the purpose of saving something from the wreck, called a State Convention for the purpose of effecting a complete and thorough organization. That convention met in the city of Richmond on the 11th of December, 1867, and was composed of eight hundred delegates. Every section of the State was represented by prominent and influential citizens, among whom were such men as A. H. H. Stuart, Thomas Jefferson Randolph, John B. Baldwin, John Letcher, Thomas S. Bocock, Thomas S. Flournoy, James L. Kemper, John Randolph Tucker, James Barbour, and others scarcely less distinguished. Thomas Jefferson Randolph, an Old Line Democrat, was selected as temporary chairman, and A. H. H. Stuart, an Old Line Whig, as the permanent president. A thorough system of party organization was adopted which proved to be very effective in bringing out the full strength of the Conservatives. Subsequently they nominated Robert E. Withers for Governor, James A. Walker for Lieutenant-Governor, and John L. Marye for Attorney-General.

While these gentlemen were making an able and energetic canvass of the State for the purpose of defeating the ratification of the Underwood Constitution, a new movement

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was inaugurated which resulted in the resignation of all the Conservative candidates and a tacit agreement on the part of the Conservative voters that they would support the Liberal Republican ticket headed by Gilbert C. Walker. This conclusion was reached by a convention which assembled at Richmond on the 28th of April, 1869, and of which R. T. Daniel was president. A Committee on Business was appointed and the majority adopted a report recommending the acceptance of the resignations of the Conservative candidates and making no recommendations as to how the members of that party should vote, it being tacitly understood that they would support the Liberal Republican ticket. That report was signed by Robert Ould, John B. Baldwin, John R. Edmunds, Fayette McMullen, L. B. Anderson, James C. Campbell, A. Moseley, W. D. Haskins, and W. T. Sutherlin. The minority report, signed by Hugh L. Latham, J. T. Mason, and myself, declared that the clauses of the Constitution to be submitted to a separate vote were immaterial in view of the leading measures of the Underwood Constitution, "negro suffrage and negro eligibility to office." In the debate which followed, the majority report was supported by John R. Edmunds, John B. Baldwin, Thomas Jefferson Randolph, Robert Ould, and R. T. Daniel. The minority report was supported by Ex-Governor William Smith, James Barbour, B. H. Shackelford, James L. Kemper, and myself. The majority report was adopted by the convention upon the idea that under all the circumstances by which we were surrounded it was the best and safest policy. Perhaps they were right.

Chapter VIII Appointment as member of Board of Visitors of Virginia Polytechnic Institute, and to University of Virginia and College of William and Mary—My associates—Delegate to National Democratic Convention—A remarkable scene in the convention—Member of National Committee—Baltimore Convention of 1872—Fitzhugh Lee—My association with him—Memorable contest for Governorship in 1873—James L. Kemper and Robert W. Hughes.

During the administration of Governor Walker he appointed me a member of the Board of Visitors of the Virginia Agricultural and Mechanical College, now known as the Virginia Polytechnic Institute. It was incumbent upon the Board to purchase a suitable

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farm, provide for the necessary workshops, establish the college curriculum, elect the professors, and do everything else that was requisite to start the institution upon its career of usefulness. Fortunately, Dr. W. H. Ruffner was a member of the Board, and we had the benefit of his valuable services as a learned scholar and experienced educator. The Board purchased the fine farm situated in the immediate vicinity of Blacksburg and belonging to Col. Robert T. Preston, a high-toned, large-hearted, and patriotic Virginian, who was perhaps as much beloved as any man of his day. From small beginnings the Institute has grown in public favor and in the number of its students, until now it has attained an enviable position in the great work of education.

I have also had the honor of being a member of the Board of Visitors at the University of Virginia and the College of William and Mary, two noble institutions that stand and have long stood pre-eminent among the educational institutions of our country. During my membership of the University Board, Hon. A. H. H. Stuart was the rector, and Hon. Thomas S. Bocock, Hon. Holmes Conrad, Hon. John L. Marye, and others conspicuous for their high character, 103 and distinguished services to the State and country, were my colleagues. When the regular business of our sessions was concluded, Mr. Stuart and Mr. Bocock entertained us with delightful reminiscences of the stirring scenes through which they had passed in the city of Washington while serving in the Congress of the United States. On the William and Mary Board I was associated with Henry A. Wise, Hugh Blair Grigsby, the Virginia antiquarian; W. W. Crump, W. B. Taliaferro, Warner Jones, and others who have made their impress upon the times in which they lived. It was indeed refreshing to listen to the learned and eloquent debates that frequently occurred, and in which Mr. Wise and Mr. Grigsby were the most active participants.

In 1868 I was sent as one of the delegates from Virginia to the National Democratic Convention that met in the city of New York that nominated Seymour and Blair for the Presidency and Vice-Presidency of the United States. During the deliberations of the convention a very remarkable and exciting scene occurred. After we had taken many ballots without result, some of the members began to vote for Horatio Seymour, who was

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then occupying the chair as president of the convention. He immediately arose from his seat and peremptorily declined the honor. Among other things, he said "his honor as a man would prevent him from accepting the nomination if tendered."

When he resumed his seat, Mr. C. L. Vallandigham of Ohio, a gifted and brilliant orator, stood upon a bench in the middle of the hall where the convention sat, and proceeded to address Mr. Seymour in a most earnest and impassioned manner, saying to him that his imperiled country demanded his services, and as a patriot he had no right to withhold them. In the midst of the excitement that followed, the members cried out from all parts of the hall, "Call the roll, call the roll!" The balloting proceeded and Mr. Seymour vacated the chair and disappeared from the scene. As is well known, he was nominated by a decisive majority. It was understood that at a meeting of the New York delegation, on the preceding evening, it had been agreed that if no nomination was made before a certain ballot, the name of 104 Chief Justice Chase should be presented to the convention and that Mr. Seymour should make the nominating speech. That was what he meant when he said his honor as a man would forbid his acceptance of the nomination if tendered.

During the session of the New York Convention, I was named by the Virginia delegation, on motion of my good friend Dr. R. H. Power of York, as the member of the National Democratic Committee from Virginia for a term of four years, and was re-elected in 1872 for a like term. August Belmont was chairman of the National Democratic Committee at the time of the nomination of Mr. Seymour. When the committee met at his house in the city of New York, after the adjournment of the convention, to make preparations for the ensuing campaign, he remarked that if Chief Justice Chase had been the nominee he could have promised the necessary financial aid from his friends on Wall Street, but under the circumstances he must request the committee to adjourn for a day in order that he might have an opportunity to confer with others as to the best means of procuring funds to defray the legitimate expenses of the campaign.

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In 1872 I had the honor to be chosen president of the Virginia Democratic State Convention held at Richmond to make preparation for the Presidential campaign of that year. I was also sent as one of the delegates from Virginia to the National Democratic Convention which assembled in the city of Baltimore. As a member of the National Committee I had the honor to propose the name of Thomas Jefferson Randolph, a grandson of Thomas Jefferson, and his literary executor, as temporary chairman of the convention, and he was designated by the committee for that purpose. After the organization of the convention, Senator Doolittle of Wisconsin was chosen as the permanent president. Horace Greeley, who had been previously nominated as the candidate of the Liberal Republican party, was accepted by the Democracy as their candidate, and the result was that in the ensuing campaign they sustained a most disastrous defeat.

At the Baltimore Convention of 1872 I met for the first time, General Fitzhugh Lee, commonly called "Our Fitz." 105 He was late in arriving at the convention and was unable to procure a room at the hotel where the Virginia delegates were stopping, whereupon I offered to share my room with him and he gladly accepted. Such was the commencement of an acquaintance and friendship which continued uninterruptedly until the day of his death. During the last three months of his life he accepted a desk in my office at Washington in order that he might attend to the business of the Jamestown Exposition Company, of which he had been elected president. I was engaged with him in many political campaigns, and I never knew a man who improved so rapidly as a public speaker. While not pre-eminently gifted as a debater or orator, he always produced a pleasing impression upon his hearers and they heard him gladly. As an executive officer he exhibited unusual tact and ability. While Governor of Virginia and Consul at Havana, he always did the right thing at the right time, no matter how trying the circumstances by which he was surrounded. When he was suddenly cut off in the midst of his usefulness to his family, his country and his friends, there was heartfelt sorrow throughout the land. His funeral in the city of Washington was attended by a large concourse of grief-stricken

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friends. It was conducted by officers of high rank in the United States Army and Navy. The casket containing his mortal remains, covered with beautiful flowers and enfolded in the National flag and the Confederate colors, was tenderly borne upon the shoulders of United States soldiers. It was attended from Epiphany Church to the railroad station by a large military detachment and an immense outpouring of citizens. It was conveyed to the city of Richmond and buried in beautiful Hollywood upon the bosom of his beloved Virginia, near the James River, whose waters will sing his requiem forever as they roll on to the sea. All who witnessed the solemn funeral cortege as it moved through the streets of the National Capital and the Capital of the Confederacy, were agreeably impressed by this striking evidence of the restoration of good feeling between the once belligerent sections of our common country.

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In the year 1873 there was a memorable contest in Virginia for the Governorship of the State, James L. Kemper being the Democratic candidate and Robert W. Hughes the Republican candidate; the result of which was the triumphant election of Kemper. He was a man of lofty character, brilliant intellect, and unusual ability as a popular speaker. During the war he was conspicuous for his gallantry and rose to the rank of brigadier-general. At the battle of Gettysburg his brigade formed a part of Pickett's division and participated in the famous charge made by that immortal command. He was in the forefront of the fight and fell near the enemy's lines, having received a wound that was for a long time supposed to be mortal. After his partial recovery, not being able to perform active service in the field, he was assigned to duty at the head of the Conscript Bureau in Richmond. He rendered valuable service in that capacity until the close of the war, when he retired to his home in the county of Madison and resumed the practise of the law.

Mr. Hughes, while not gifted as a public speaker, was universally recognized as a man of varied learning and excellent literary attainments. He was for a long time connected with the newspaper press in Virginia, and in that capacity achieved considerable reputation as a forcible and trenchant writer. When he was appointed U. S. District Judge for the

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Eastern District of Virginia he exhibited wonderful aptitude, although he had not been very extensively engaged in the practise of law before his elevation to the bench. He had remarkable facility in the use of his pen, and after he had heard a question well discussed by opposing counsel he had no difficulty in constructing an opinion which would have been creditable to the most learned judge.

Chapter IX Elected to 44th Congress—Contest for the seat—Sample of testimony taken in the contest—Pleasant relations with Governor Wise—My Democratic colleagues from Virginia—Prominent members of the House—James G. Blaine—John Randolph Tucker—Benjamin H. Hill and Zach. Chandler—Encounter between Roscoe Conkling and L. Q. C. Lamar—Wintersmith and Lamar—John H. Reagan, the Grand Old Man of Texas—Zebulon B. Vance—The debt the people of Virginia owe to him—Samuel J. Randall—James A. Garfield and Yorktown.

In November, 1874, I was elected a member of the 44th Congress of the United States from the Norfolk, Virginia, District. There were two other candidates in the field besides myself—James H. Platt of Vermont, who was nominated by the regular Republican Convention of the district, and Robert Norton, a colored man, who was nominated by a large mass meeting of the colored people held at Yorktown. The Democratic Convention that nominated me met at Suffolk, and after their adjournment they proceeded in a body to Norfolk, and marched through the streets with a band of music and under a flag that had been made for the occasion by the ladies of Suffolk, to the City Hall. They appointed a committee to wait upon me at my office, and requested my appearance before the convention, and demanded my acceptance of the nomination, although it was considered at the time as a forlorn hope. The campaign will long be remembered as one of the most exciting that has ever been known in the history of the State.

Mr. Platt was a man of acknowledged ability and was an excellent organizer, but as a member of the Underwood Convention and as a Radical Representative in Congress, he had become particularly obnoxious and offensive to the white people of the Norfolk

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district. They determined with great unanimity that they would defeat his re-election if possible, and turned out in large numbers to meet me at all my appointments 108 for public speaking in the different neighborhoods. The ladies, particularly, exhibited unusual interest, and cordially extended to me the benefit of their powerful influence. After a campaign of unexampled activity and excitement, continuing for about six weeks, I was declared elected.

Mr. Platt made a contest before the State Board of Canvassers, consisting of James L. Kemper, Governor; R. T. Daniel, Attorney-General; R. M. T. Hunter, Treasurer; James McDonald, Secretary of the Commonwealth, and W. F. Taylor, Auditor of Public Accounts. He was represented by John Lyon and Edgar Allen as his counsel, and I was represented by that brilliant and accomplished lawyer W. W. Gordon, who stood pre-eminent at the Richmond bar. The Board, after a thorough investigation, and an exhaustive hearing, unanimously awarded the certificate of election to me. After the decision of the Board, I returned to the city of Norfolk, and was received with such demonstrations of applause as have rarely been equaled. The city was brilliantly illuminated and nearly the entire population turned out to meet me at the railroad station, and with a torchlight procession escorted me to my home.

My competitor, Mr. Platt, not being satisfied with the decision of the State Board of Canvassers, determined to contest before the House of Representatives my right to the seat, and accordingly served upon me in due time a notice of contest. He was represented by Henry A. Wise, John Lyon, and Edgar Allen as his attorneys. I did not employ any attorney to represent me because I thought I understood the case thoroughly. This was, perhaps, a mistake on my part. In the taking of the depositions throughout the district, Mr. Platt was generally represented by Governor Wise, and I greatly enjoyed my various encounters with him.

In the county of Prince George I introduced a witness, Mr. B., for the purpose of proving that he was one of the judges of the election at a certain precinct and that after the election

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he had taken the poll books and ballots from the precinct without being sealed according to law. After he had testified and fully established the point, as made in my answer to the notice of contest, he was turned over to Governor 109 Wise for cross-examination, whereupon the following colloquy occurred: "Mr. Wise—I understand you to say, Mr. B., that you acted as one of the judges of the election at the precinct now under investigation? Mr. B.—Yes, sir. Mr. Wise—And you carried the poll books and the ballots to the court-house? Mr. B.—Yes, sir. Mr. Wise—And I understand you to say that they were not sealed as the law directs? Mr. B.—Yes, sir. Mr. Wise—I ask you, Mr. B., why were they not sealed? Mr. B.—Because we had nothing to seal them with. Mr. Wise—Did you have no sealing-wax? Mr. B.—No, sir. Mr. Wise—Did you have no wafers? Mr. B.—No, sir. Mr. Wise—Did you have no flour to make a little paste with? Mr. B.—No, sir. Mr. Wise—Good Heavens! were there no pine trees about here to weep turpentine?"

The foregoing is a fair specimen of what occurred in the taking of depositions in the various counties. When the case finally reached the Committee on Elections in the House of Representatives, Mr. Wise made a characteristic speech and attracted a great crowd to the committee room. It was the last speech he ever delivered and he was exceedingly feeble. During its delivery he found it necessary to remain in his seat, but occasionally he would rise up and give utterance to a brilliant outburst, thus reminding one of a candle flickering in the socket and occasionally blazing up. As I review the past, I recall with pleasure the fact that throughout this exciting contest, involving so much to me, nothing occurred to disturb in the least my personal relations with Governor Wise, and he always treated me with marked courtesy and kindness. In explaining why he had consented to act as counsel for my competitor he remarked that personally he would not give my little finger for Platt's whole body. The Committee on Elections reported against me, but after a most animated debate the House of Representatives reversed the committee and decided the contest in my favor on the 28th of July, 1876.

I took my seat as a member of the House of Representatives of the 44th Congress on the first Monday in December, 1875. My Democratic colleagues from Virginia were men 110

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of high character and acknowledged ability, who had rendered conspicuous services to the State in peace and in war. They were Beverly B. Douglas of the first district, Gilbert C. Walker of the third, George C. Cabell of the fifth, John Randolph Tucker of the sixth, John T. Harris of the seventh, Eppa Hunton of the eighth, and William Terry of the ninth. Mr. W. H. H. Stowell was the only Republican member, and represented the fourth district.

I was appointed a member of the Committee on Banking and Currency of which Samuel Sullivan Cox, better known as "Sunset Cox," was chairman. He was a man of brilliant intellect, ripe scholarship, and overflowing wit. He never failed to command the close and undivided attention of the members on both sides of the Chamber whenever he addressed the House. It is believed that he would have attained the Speakership but for his irrepressible wit and humor. Among the more prominent members on the Democratic side were Michael C. Kerr, Samuel J. Randall, Samuel S. Cox, Alexander H. Stephens, Fernando Wood, Abram S. Hewitt, Benjamin H. Hill, L. Q. C. Lamar, J. Proctor Knott, J. C. S. Blackburn, William S. Holman, William M. Springer, Adlai E. Stevenson, W. R. Morrison, John H. Reagan, David B. Culberson, Charles James Faulkner, and others. Among the more prominent members on the Republican side were James G. Blaine, James A. Garfield, George F. Hoar, William D. Kelley, Charles Foster, Joseph G. Cannon, Omar D. Conger, George W. McCrary, John Kasson, and others.

Michael C. Kerr was nominated for the Speakership by the Democratic caucus and elected by the House in opposition to James G. Blaine, the Republican candidate. Mr. Kerr was a man of lofty character and pre-eminent ability. It was claimed by his many admirers that he resembled very much in his mental characteristics the great Carolina statesman, John C. Calhoun, who, like the great political prophet he was, foretold the dangers that finally culminated in the disruption of the Union. Unfortunately, Mr. Kerr was a man of feeble constitution physically, and was necessarily absent from the chair during the greater part of the session. In the closing hours of the first session the House unanimously 111 adopted a resolution expressing the heartfelt sympathy of all the members with him in his affliction, which was sent to him by telegraph at the Rockbridge Springs in Virginia, at

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which place he was temporarily sojourning until his death on the 19th of August, 1876, at that place, in the 49th year of his age. During the protracted illness of Mr. Kerr, the House adopted a resolution, on motion of Mr. Holman on the 24th of June, by which they appointed Milton Saylor of Ohio as Speaker *pro tempore*, in which capacity he served very acceptably until the final adjournment of the first session in August.

Mr. Blaine was the recognized leader on the Republican side, and was undoubtedly a man of exceptional talent and parliamentary skill. He was remarkably quick and alert, and excelled all the men I have ever heard in what is known as a running debate. While he was under investigation by the Judiciary Committee of the House he exhibited extraordinary audacity, and a stranger sitting in the galleries and observing his bearing would have supposed that the committee were the defendants and he was the prosecutor. With head aloft, eyes aflame and nostrils dilated, he left his seat on the Republican side, charged down the aisle, shook his fist at the Democratic side and exclaimed, in stentorian terms, "Sixty odd of you sit there by the grace and clemency of this great Government, and if you had your deserts you would all be hung as high as Haman!" It is proper to say that this assault was successfully met by Eppa Hunton of Virginia, who added very materially to his well-earned reputation as a strong, ready, and able debater. The last time I ever saw Mr. Blaine was while he was in the office of Secretary of State. I happened to be passing by his house on Lafayette Square, when he alighted from his carriage and seemed to be in a very feeble condition. When I stopped to speak to him, he took me by the hand and said, "If it is a fair question, how old are you?" I said I was born in 1829. He promptly replied, "I was born in 1830." I said, "Mr. Secretary, I am slightly your senior, but you have made a great many more footprints on the sands of time than I have." Raising his hand in that dramatic manner peculiar to him, in a most pathetic tone of voice he said, "Ah! sands, sands, shifting sands." He died soon afterwards, having failed to reach the great goal of his ambition—evidently a disappointed man.

In writing of Mr. Blaine I am reminded of a sharp intellectual combat that occurred on one occasion in the House of Representatives between Mr. Blaine and John Randolph Tucker.

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It seems that Mr. Tucker, while he was Attorney-General of Virginia, had given a legal opinion to the effect that it was competent for a justice of the peace to order the burning of any copy of the *New York Tribune* found at the post-office in his neighborhood, upon the ground that it was an incendiary document and calculated to incite servile insurrection. Mr. Blaine in some way heard of this opinion, and being ever ready to enter the lists against any antagonist, took the floor and arraigned Mr. Tucker very sharply. In the excitement of the moment he left his seat on the Republican side and crossed over to the Democratic side, in order that he might engage his adversary at close quarters. They went at it with gloves off in regular pugilistic style and the members gathered around them in great excitement. As to the outcome, it is sufficient to say that when Mr. Blaine returned to his side of the Chamber he remarked to his friends around him that he had gotten what he went for, to which one of them replied, "It seems to me you got a great deal more than you went for."

One of the greatest speeches I ever heard on the tariff was delivered by Mr. Tucker in the House of Representatives during his service in that body. It was able, logical, learned, exhaustive, and commanded the undivided attention of the members on both sides of the Chamber.

On another occasion I heard him before the Supreme Court when he appeared with Roscoe Conkling to represent Virginia in a suit involving certain phases of her coupon legislation. Mr. Conkling was a great lawyer and was gifted with a wonderful vocabulary, but it is no disparagement of him to say that Mr. Tucker did not suffer at all by a comparison.

Mr. Tucker was not only a profound lawyer and logical debater, but he had a variety of other gifts which made him almost irresistible on the hustings. As an advocate he carried the juries captive at his will, and as a popular orator he was unsurpassed. He never told stale stump anecdotes which had done duty for many generations, but his wit was sparkling and bubbled up as spontaneously as champagne. He had great powers of

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mimicry and was a born actor. I heard him say once that he had followed a rooster around a barnyard two hours to study his struts. His wit and humor were always irrepressible, and never forsook him even in his dying moments. He was a devout Christian and died with a most exultant faith, but it is said that during the afternoon in which he passed away he amused the friends who sat around his bed-side with some of his inimitable stories. It has been sometimes said that his great gifts as a wit and humorist prevented his advancement to the highest honors of his profession, and that but for these Mr. Cleveland would have nominated him to fill a vacancy on the bench of the Supreme Court, a position which he coveted above all others; but I am inclined to believe that this is a mistake. When the President had the matter under consideration I called at his office one morning and urged the appointment of Mr. Tucker with all the earnestness at my command. He heard me patiently, and when I had concluded my remarks he said, "Mr. Goode, how old is Mr. Tucker?" I said, "I happen to know exactly; he has told me often that he was born the night before Christmas in the year 1823." His reply was, "I cannot think of appointing any man to the bench of the Supreme Court who is over sixty years of age. He can retire at seventy and he ought to have, when appointed, at least twenty years of good work in him."

If I should undertake to repeat all the good stories which I have heard Mr. Tucker tell it would require a small volume to contain them, and I shall therefore content myself with a single specimen. When Mr. Tucker was elected to the Forty-fourth Congress, his friend Gov. James L. Kemper, distinguished for his dignified and lofty bearing, said to him, "Now, Ran., you have been elected to represent the old Mother Commonwealth in the National House of Representatives; let me beg of you to put away your levity and never tell an anecdote." Mr. Tucker made the promise and kept it faithfully for some time after entering Congress, but one night, at a dinner given by Mr. Fernando Wood, after the wine had been circulated and the company had become a little hilarious, it was whispered about that Mr. Tucker could tell a good story, and after much persuasion he was induced to tell his famous smelling-bottle story. Judge David Davis, who had just gone from the Supreme Court to the Senate, enjoyed it hugely. He was completely convulsed with laughter, and

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throwing himself back in his chair, said, "Oh, Lord, how I wish Lincoln could have heard that story; Tucker, tell it again." Tucker said, "Judge, I will tell it again on one condition." "Name your condition," said the Judge. "Well," said Tucker, "I have a little bill which has just passed the House and gone to the Senate, reducing the tax on manufactured tobacco from 12 to 8 cents a pound. If you will vote for my bill in the Senate I will repeat the story." "All right," said the Judge, "it is a bargain, go ahead." The story was known in Washington as the famous "smelling-bottle story." Nobody could tell it like Mr. Tucker, and I fear it is unpardonable in me to attempt to repeat it, but as well as I can recall now it was as follows: He said that in the old county of Lunenburg in south-side Virginia there was a Universalist preacher who went about the county denying the immortality of the soul. Brother Watt, an old Presbyterian divine in the county, having heard about this, challenged the Universalist to a public discussion, and the challenge was accepted. It was "norated" far and wide that on a certain day at a certain meeting-house there would be a great polemic between the Universalist and Brother Watt, and the people were all invited to attend, without distinction of party or of sect, and they came. They came from all parts of the county. They came in carts, wagons, Jerseys, buggies, and on horseback. They brought with them provisions enough to last a week—hams, pigs, lambs, ducks, chickens, pies, etc. About eleven o'clock they assembled in the old frame meeting-house, much resembling a barn in appearance, and selected a moderator, who stated the subject of debate and said the Universalist would lead off. After speaking for some time he illustrated his position by saying, "My 115 brethren and sisters, when the soul leaves the body it is a mere evaporation, a mere exhalation as it were, as if you would uncork a smelling-bottle." When Brother Watt came to reply, after stating his adversary's position and referring to his illustration, he said, "Let us test this by a few texts of the Sacred Writings. Wherever the word 'soul' appears in the sacred text, strike that out and insert 'smelling-bottle'; for example, 'What will it profit a man to gain the whole world and lose his "smelling-bottle."' Take another text: 'My soul is among lions'; strike out soul and insert 'smelling-bottle'—'My "smelling-bottle" is among lions'; now what David's smelling-bottle was doing among lions, I am at a loss to understand." After quoting many other texts, the audience became so

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uproarious that the Universalist could not stand fire any longer and beat a hasty retreat. Brother Watt followed him down the main aisle, and lifting both hands above his head, exclaimed in a loud voice, "Why art thou so cast down, oh, my 'smelling-bottle'?"

During the 44th Congress I had the pleasure of listening to a notable debate in which Mr. Blaine and Benjamin H. Hill were the "bright particular stars." The debate took place upon a General Amnesty Bill introduced by Mr. Samuel J. Randall. Mr. Blaine had made most elaborate preparation and was thoroughly equipped for the encounter. On the other hand, Mr. Hill, not expecting that such a service would be required of him, had made no preparation whatever, and it was with much difficulty that his Southern colleagues persuaded him to enter the arena under the circumstances. It was the universal sentiment, however, that he could not possibly have acquitted himself in a handsomer manner, and that the "Plumed Knight" had met his match.

Afterwards, when Mr. Hill was a member of the Senate, I went one morning to the Senate Chamber, expecting to remain only a few minutes; but as I entered the hall, Mr. Hill arose to speak, and I was so impressed by his argument and charmed by his eloquence that I remained until the conclusion of his great speech, which occupied four hours. He discussed at great length the fundamental principles of the Government, declared that in his opinion it was in more danger from centralization than it had been from secession, and made an earnest appeal to the Republican members to unite with him in saving the Government of our fathers from the centralizing tendencies of the hour. Zachariah Chandler became very much excited, and when reminded by Mr. Hill of his famous telegram sent to the Governor of his State, in which he expressed the opinion that "without a little blood-letting, the Union would not be worth a rush," he lifted up his voice and exclaimed in stentorian tones, "Yes, I did send it, and why? Because there was treason in the Senate Chamber, treason in the House of Representatives, treason in the corridors, treason in the street cars, treason on the side-walks, treason everywhere!"

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Another conspicuous figure in the House of Representatives of the 44th Congress was L. Q. C. Lamar of Mississippi, afterwards Senator, Cabinet Officer, and Supreme Court Judge. He was in many respects a very remarkable man. It is said he prepared his speeches with great care and often wrote and rewrote the most striking passages contained in them. On many occasions he was looked to by the Democrats in the House to meet and roll back the tide of Republican assault when made by Blaine, Garfield, and other great champions in debate.

After his election to the Senate he had a famous encounter one night with Senator Conkling which I happened to witness. The Democratic Senators had been filibustering throughout the day to prevent the passage of some obnoxious measure. About one o'clock in the morning Mr. Conkling took the floor, and was exceedingly severe in his animadversions upon the position taken by the Democratic Senators, and especially by Mr. Lamar. He said that at an early stage of the session the Senator from Mississippi had, through the courtesy of the Senate, obtained permission to call up for consideration a certain bill in which he was particularly interested, and now he was found uniting with others in obstructing the public business. Mr. Lamar, laboring under evident excitement, replied with some warmth. Mr. Conkling followed him and intimated that Mr. Lamar had impugned his veracity, but gave him an opportunity to disclaim. When he sat down, 117 Mr. Lamar arose and said: "Mr. President, the Senator from New York did not misunderstand me. I intended to charge him with wilful and deliberate falsehood. The language is harsh and unparliamentary, I admit. I apologize to the Senate for the use of it; but, sir, it is such language as no good man would deserve and no brave man will wear." There was of course a great sensation, and the Senators sat apparently dazed until the silence was broken by a member who rose very quietly and said, "Mr. President, what is the business before the Senate?" It is said that at a late hour that night, while the Senate was in secret session, the friends of the parties interfered and brought about an amicable adjustment, Mr. Lamar being represented by John B. Gordon of Georgia, that Chevalier Bayard of the South.

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When Mr. Lamar was nominated to the Senate for Supreme Court Justice, there was considerable opposition made to his confirmation by certain Republican Senators upon the ground that, although he was a brilliant orator, his legal attainments were not such as to entitle him to fill such an exalted judicial station. While the matter was under consideration, Dick Wintersmith of Kentucky, who was recognized as a privileged character, met Mr. Lamar and told him he had been to the Senate to see about his confirmation. "I told them," said he, "to confirm you, and whenever a suitable opportunity was presented you would deliver an opinion that would go sounding down the corridors of time. But when you do, my dear Lucius, please don't do as you did when you delivered that 4th of July oration in Mississippi, when you roamed with Romulus, soaked with Socrates, ripped with Euripides, and died with Diogenes." Mr. Lamar did not have the benefit of an extensive practise before he was elevated to the bench, and he was not familiar with the rules of the court and the precedents, but his opinions in a certain class of cases are exceedingly strong. His opinion in the case of Thomas Cunningham, Sheriff of the County of San Joaquin, Appellant, vs. David Neagle, on an appeal from a judgment of the Circuit Court of the United States for the Northern District of California, discharging upon *habeas corpus* David Neagle from the custody of the sheriff of the 118 county of San Joaquin, in the State of California, who held him a prisoner on the charge of the murder of David S. Terry, is sufficient of itself to establish his reputation as an able constitutional lawyer.

When I became a member of the 44th Congress I met for the first time that grand old man John H. Reagan of Texas, who has recently passed away full of years and full of honors. While not so brilliant as some others, he was exceedingly robust in intellect and character. No man in public life ever enjoyed to more unlimited extent the confidence and esteem of his associates for his clear, discriminating judgment, his sound commonsense, and his disinterested, exalted patriotism. Previously, as a member of the Cabinet of Mr. Davis, he stood like a wall of adamant in defense of the rights and liberties of his people, and remained faithful unto the end.

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During my service in the 44th, 45th and 46th Congresses, I frequently met Zebulon B. Vance, a talented Senator from North Carolina, and I do not hesitate to say that he had a greater variety of gifts than any public man I have ever known. He was argumentative, logical, eloquent, and humorous to a high degree. His speeches on the tariff in the Senate were characterized by great power and a remarkable knowledge of details. His published letters descriptive of the scenery in western North Carolina have been unsurpassed in beauty of imagery and fancy. There is nothing finer in the English language than his glowing address on the "Scattered Nation." His speeches on the hustings in political campaigns have made his name a household word in the grand old State which he loved so well. He was a natural-born orator, and excelled all the public men of his day in the faculty of adapting himself to the plainest comprehension and illustrating his ideas with what he called parables. Many of his anecdotes still live in the memory of his admiring countrymen. On one occasion, when he was a candidate for the Governorship, and was holding a joint discussion in the open air with his competitor, Judge Settle, an animal with very long ears, hitched to a tree on the outskirts of the crowd, began to bray. Vance looked at 119 Settle, and then pointing toward the braying animal that had interrupted him said, "One at a time, gentlemen, if you please."

At the battle of Malvern Hill Vance commanded a North Carolina regiment, and as they charged in the face of a murderous fire up a hillside covered with broom-sage, a rabbit jumped up and ran down the bill in full view of the regiment. Vance turned around, and waving his sword, exclaimed, "Go it, old Molly Cotton-Tail! If I didn't have a reputation to preserve, I would be with you." He was twice elected Governor of his State, and in that capacity exhibited great executive ability. It is said that as war Governor he was so energetic in providing for the comfort of the North Carolina troops in the field that they were better clothed and in every way made more comfortable than any of their compatriots from other States of the South. The people of Virginia feel that they owe him a lasting debt of gratitude, and will ever take delight in doing honor to his memory on account of his vigorous and manly defense of them against a cruel and unjust charge. After the election

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that occurred in November, 1883, it was charged that all the Democrats of Virginia had united and entered into a foul conspiracy to massacre the colored people of Danville on the day of election. The matter was brought to the attention of Congress and was referred to a committee of the Senate for investigation. Senator Vance was a member of that committee, and as such made a report to the Senate in which he ably and nobly vindicated the people of Virginia against the false accusation. During the investigation I appeared before the committee as one of the counsel for our people, and was profoundly impressed with the great ability displayed by the Senator and the invaluable service rendered by him to the cause of truth and justice.

When the House of Representatives reassembled on the 4th day of December, 1876, Samuel J. Randall, the nominee of the Democratic caucus, was elected Speaker of the House, in opposition to James A. Garfield, the nominee of the Republican caucus. These two men were recognized in their day as intellectual giants. Each was the leader of his party during the remainder of the 44th Congress, and Mr. Randall achieved distinction as a great reformer and in carrying out his program of retrenchment and economy. He was not, perhaps, so great in debate as some of his colleagues, but he was celebrated for his clear, incisive style and indomitable will. Mr. Garfield had a gigantic intellect and was undoubtedly great as a debater and an orator. The last time I ever saw him was after his election to the Presidency. I called at the White House in the summer of 1881, as chairman of the House Committee on the Yorktown Centennial Celebration, and notified him that he would be expected to be present at Yorktown on the 19th of October, 1881, and deliver an oration. He received me most cordially, seemed to be much interested, and when I took my leave he accompanied me to the door, and the last words from him were, "I shall meet you at Yorktown and you may expect me to make the effort of my life." In a short time after that interview he was stricken down by the cruel hand of a cowardly assassin, who has been justly described as a great moral monstrosity.

Chapter X The Electoral Commission—A retrospective glance at the method of counting the electoral vote—Provisions of bill creating the Commission—Its

personnel and organization—Counting the vote—The disputed Florida certificates—Ruling of the Commission—Louisiana's case and final disposition—The case of Oregon—An incident that created merriment—South Carolina certificates considered and Hayes electors counted—The fundamental error of the Commission—An important conference—My remarks in the House during the counting of the electoral vote.

During the winter of 1876–7 the 44th Congress found it necessary to decide the important question of the succession to the Presidency, in which the controversy between Hayes and Tilden was settled by the creation of an Electoral Commission. In this connection I deem it not inappropriate to introduce a paper which I had the honor to read before the Virginia State Bar Association at its 15th annual meeting held at Hot Springs, Virginia, in August, 1903. The paper reads as follows:

“As one of the participants in the legislation of Congress which resulted in the creation of the famous Electoral Commission of 1877, and as an eye-witness of the proceedings of that tribunal, I have thought it might not be inappropriate, on an occasion like the present, to recall to your recollection some of the more prominent facts and incidents connected with that remarkable event in American history.

“In undertaking this task, I desire to disclaim any purpose to cast odium upon any of the actors in that great drama, or to rekindle any of the party animosities that were inseparably connected with it. My sole purpose is, in the interest of truth, to give a plain, unvarnished statement of facts as they occurred.

“In the Presidential election that took place on the 7th of November, 1876, Samuel J. Tilden of New York was the Democratic candidate, and Rutherford B. Hayes of Ohio 122 was the Republican candidate. In an interview published in a Cincinnati paper, on Thursday morning after the election, Mr. Hayes said: ‘I think we are defeated, in spite of

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recent good news. I am of the opinion that the Democrats have carried the country and elected Tilden.'

"It was well understood that General Grant, then President, believed that Mr. Tilden had been elected. George W. Childs, an intimate personal friend and confidential adviser of General Grant, on the 5th of September, 1885, in a letter published in the *Philadelphia Ledger*, stated that General Grant, the morning after the election, in his presence and that of others, expressed the opinion that Mr. Tilden had been elected.

"He also says, in the same letter, that just before General Grant started on his journey around the world, he was spending some days with him (Childs), and at dinner with Mr. A. J. Drexel, Col. A. K. McClure and himself, General Grant reviewed the contest before the Electoral Commission, and stated that he expected from the beginning until the final judgment that the electoral vote of Louisiana would be awarded to Mr. Tilden. This statement of Mr. Childs has been fully corroborated by Mr. Drexel and Colonel McClure.

"But, notwithstanding these significant declarations made by Mr. Hayes and President Grant, and notwithstanding the opinion generally prevalent throughout the country on the morning after the election, that Mr. Tilden had been elected, certain able, astute and resourceful leaders of the Republican party, being unwilling to surrender the enormous power and patronage belonging to the Presidential office, determined that they would contest every inch of ground, and, if possible, would snatch victory from the jaws of defeat.

"Accordingly, they agreed upon a plan to be put into immediate operation, and as a part of that plan, Zachariah Chandler, Chairman of the National Republican Committee, in order to inspire his dispirited followers with renewed hope and courage, sent out his famous despatch, as follows: 'Hayes has 185 electoral votes and is elected.'

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“The whole number of electors was 369, and 185 votes were necessary to a choice. Mr. Tilden had 184 votes that were undisputed and Mr. Hayes had 166 undisputed, so that it was necessary, in order to elect him, to secure nineteen additional votes.

“How were they to be secured and from whence were they to come? It was perfectly evident they must come from Florida, Louisiana, and South Carolina, and to these States the visiting statesmen, so called, repaired without delay, for the purpose of watching the proceedings of the returning boards.

“Without transcending the proper limits of this paper, I cannot undertake to give a minute and detailed account of those proceedings. Suffice it to say that, in many respects, they were without a precedent in the history of the country.

“When the 44th Congress of the United States held its second session in December, 1876, the whole country was stirred by an extraordinary excitement, growing out of the Presidential election. Both parties claimed the victory, and their respective claims were maintained with great vigor and determination. Under these circumstances, grave fears were entertained that a serious collision might occur unless Congress, in its wisdom, could devise some plan for settling the differences of opinion as to the proper mode of counting the electoral votes, and determining the result according to the very right of the case.

“Before referring to the proceedings of Congress which resulted in the creation of the Electoral Commission, and to the proceedings of the Commission itself, it may be instructive to take a retrospective glance at the method of counting the electoral votes from 1789 to 1876.

“Paragraph three of section one, article two of the Constitution, as adopted in 1787, reads as follows:

The electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they

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shall make a list of all the persons voted for, and of the number of votes for each; which list, they shall sign, certify and transmit sealed to the seat of government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, 124 open all the certificates, and they shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such a majority and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the five highest on the list the said House shall in like manner choose the President. But in choosing the President the vote shall be taken by States, the representatives from each State having one vote; a quorum for this purpose shall consist of the member or members from two-thirds of the States, and a majority of the States shall be necessary to a choice. In every case, after the choice of the President, the person having the greatest number of votes of the electors shall be the Vice-President. But if there should remain two or more persons who have equal votes, the Senate shall choose from them by ballot the Vice-President.

“On April 6, 1789, the Senate and House of Representatives met for the purpose of opening and counting the electoral votes, whereby it appeared that George Washington and John Adams had been unanimously elected President and Vice-President of the United States for the first term, commencing the 30th of April, 1789.

“On March 1, 1792, Congress passed an act regulating the election of President and Vice-President and to perfect the manner of appointing electors. On the 13th of February, 1793, the Senate and House of Representatives having met, the certificates of the electors of the fifteen States were by the Vice-President opened, read, and delivered to the tellers appointed for the purpose, who, having examined and ascertained the votes, presented a list of them to the Vice-President, whereby it appeared that George Washington had been unanimously elected President for a period of four years, commencing the 4th of March,

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1793, and that John Adams had been elected by a plurality of votes Vice-President for the same period.

“On the 8th of February, 1797, the two Houses of Congress assembled, and the certificates of electors of sixteen States were by the Vice-President, John Adams, opened, read and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the Vice-President, which was read, whereupon, the Vice-President addressed the House as follows:

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In obedience to the Constitution and laws of the United States, and to the command of both Houses of Congress, expressed in their resolution passed in the present session, I now declare that John Adams is elected President of the United States for the four years to commence the fourth day of March next, and that Thomas Jefferson is elected Vice-President of the United States for the four years commencing the fourth day of March next; and may the Sovereign of the Universe, the Ordainer of civil government on earth for the preservation of liberty, justice and peace among men, enable both to discharge the duties of these offices conformably to the Constitution of the United States with conscientious diligence, punctuality and perseverance.

“In January, 1800, an attempt was made to remedy the difficulties likely to arise in counting the electoral votes. A bill was reported by the Senate Committee, entitled, ‘A bill prescribing the mode of deciding disputed elections of President and Vice-President of the United States.’ This bill passed the Senate but failed in the House of Representatives.

“On February 11, 1801, the two Houses of Congress assembled and the certificates of electors of sixteen States were by the Vice-President opened and delivered to the tellers appointed for the purpose, who, having examined and ascertained the number of votes, presented a list thereof to the Vice-President, from which it appeared that the whole number of electors who had voted was 138, of which number Thomas Jefferson and Aaron

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Burr had a majority, but the number of those voting for them being equal, no choice was made by the people, and consequently the duty of making an election devolved upon the House of Representatives, which proceeded to ballot, and on the thirty-sixth ballot the tellers declared that the votes of ten States had been given for Thomas Jefferson, the votes of four States for Aaron Burr, that the votes of two States had been given in blank, and that, consequently, Thomas Jefferson had been, agreeably to the Constitution, elected President of the United States for four years from the 4th of March, 1801. At the same time, Thomas Jefferson, as Vice-President and President of the Senate, gave a certificate that Aaron Burr had been duly elected, agreeably to the Constitution, Vice-President of the United States for the same period.

“The struggle between Jefferson and Burr for the Presidency, decided by the House of Representatives in 1801, was perhaps the gravest crisis through which the country had 126 been called to pass since the organization of the government under the Constitution of 1789, but it was destined to be confronted with a far graver crisis in 1877.

“It will be observed that under the Constitution, as originally framed, the Vice-President was not voted for as such, but in every case, after the choice of the President, the person having the greatest number of votes of the electors was declared to be the Vice-President. It was in this manner that John Adams was chosen Vice-President in 1789 and 1793, and Thomas Jefferson in 1797 and Aaron Burr in 1801.

“A different provision was made by the adoption of the Twelfth Amendment to the Constitution, which was proposed by the Senate and House of Representatives on the 7th of October, 1803, and ratified by three-fourths of the legislatures of the several States. This change in the Constitution necessitated the passage of an act, approved March 26, 1804, entitled, ‘An act supplementary to the act entitled an act relative to the election of the President and Vice-President of the United States,’ and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice-President.

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"In accordance with the Constitution and the law, Thomas Jefferson and George Clinton were declared duly elected President and Vice-President for the term commencing the 4th of March, 1805.

"James Madison and George Clinton were declared duly elected President and Vice-President for the term commencing the 4th of March, 1809.

"James Madison and Elbridge Gerry were declared duly elected President and Vice-President for the term commencing the 4th of March, 1813.

"James Monroe and Daniel D. Tompkins were declared duly elected President and Vice-President for the term commencing the 4th of March, 1817.

"James Monroe and Daniel D. Tompkins were declared duly elected President and Vice-President for the term commencing the 4th of March, 1821.

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"When the Senate and House of Representatives assembled on the 9th of February, 1825, to count the electoral votes, it appeared that no person had received a majority of the votes cast for President, that John Quincy Adams, Andrew Jackson, and William H. Crawford were the three persons who had received the highest number of votes for President, and that John C. Calhoun, having received 182 votes, was duly elected Vice-President to serve four years from the 4th of March, 1825. The duty of electing a President having thus devolved upon the House of Representatives, Mr. Webster and Mr. Randolph were appointed tellers, and announced the result of the ballot as follows:

John Quincy Adams 13

Andrew Jackson 7

William H. Crawford 4

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"Whereupon the Speaker of the House declared that John Quincy Adams, having a majority of the votes of these United States, was duly elected President of the same for four years, commencing with the 4th of March, 1825.

"Andrew Jackson and John C. Calhoun were declared duly elected President and Vice-President for the term commencing the 4th of March, 1829.

"Andrew Jackson and Martin Van Buren were declared duly elected President and Vice-President for the term commencing the 4th of March, 1833.

"Martin Van Buren and Richard M. Johnson were declared duly elected President and Vice-President for the term commencing the 4th of March, 1837.

"William H. Harrison and John Tyler were declared duly elected President and Vice-President for the term commencing the 4th of March, 1841.

"James K. Polk and George M. Dallas were declared duly elected President and Vice-President for the term commencing the 4th of March, 1845.

"Zachary Taylor and Millard Fillmore were declared duly elected President and Vice-President for the term commencing the 4th of March, 1849.

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"Franklin Pierce and William R. King were declared duly elected President and Vice-President for the term commencing the 4th of March, 1853.

"James Buchanan and John C. Breckinridge were declared duly elected President and Vice-President for the term commencing the 4th of March, 1857.

"Abraham Lincoln and Hannibal Hamlin were declared duly elected President and Vice-President for the term commencing the 4th of March, 1861.

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“On the 30th of January, 1865, the rule known as the Twenty-second Joint Rule was adopted. That rule provided that ‘no vote objected to shall be counted except by the concurrent votes of the two Houses.’ It remained in force until the meeting of the Forty-fourth Congress, when it was repealed, and under it the electoral counts were had in 1865, 1869 and 1873.

“Abraham Lincoln and Andrew Johnson were declared duly elected President and Vice-President for the term commencing the 4th of March, 1865.

“Ulysses S. Grant and Schuyler Colfax were declared duly elected President and Vice-President for the term commencing the 4th of March, 1869.

“Ulysses S. Grant and Henry Wilson were declared duly elected President and Vice-President for the term commencing the 4th of March, 1873.

“Before the expiration of that term a dispute arose as to the proper method of counting the votes cast at the Presidential election held in November, 1876, the only legislation on the subject being found in the act of Congress approved March 1, 1792, and the act approved March 26, 1804, the provisions of which acts are embodied in the Revised Statutes of the United States, from section 131 to section 144 inclusive.

“On the 14th of December, 1876, the House of Representatives adopted a resolution providing for the appointment of a committee of seven, with power to act in conjunction with any similar committee appointed by the Senate, whose duty it should be to prepare and report without delay a measure for the removal of the differences of opinion as to the proper mode of counting the electoral votes for President and Vice-President of the United States, and as to the manner of determining questions which might arise as to the legality and validity of the returns of such votes made by the several States, to the end that the votes should be counted and the result declared by a tribunal whose authority none could question, and whose decision all would accept as final.

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“Under that resolution the following members were appointed by the Speaker on the part of the House of Representatives: Henry B. Payne of Ohio, Eppa Hunton of Virginia, Abram S. Hewitt of New York, William M. Springer of Illinois, George W. McCrary of Iowa, George F. Hoar of Massachusetts, and George Willard of Michigan.

“On the 18th of December, 1876, the Senate appointed a select committee of seven, with power to confer and act with the committee of the House of Representatives. The members of the Senate Committee were George F. Edmunds of Vermont, Oliver P. Morton of Indiana, Frederick T. Frelinghuysen of New Jersey, Roscoe Conkling of New York, Allen G. Thurman of Ohio, Thomas F. Bayard of Delaware, and Matt W. Ransom of North Carolina.

“The House committee, after a most exhaustive consideration, agreed upon a bill which they believed to be eminently fair and just. The House committee having been invited to meet the Senate committee in joint session, the two committees thereafter sat together. The Senate committee had already prepared a bill, and when the two committees met together, a motion was made to substitute the House bill for that of the Senate. This motion failed by a tie vote, the two Republicans of the House committee voting with the three Republicans of the Senate committee, and the two Democrats of the Senate committee voting with the three Democrats of the House committee. An earnest effort was made in the joint committee by the Democratic members to amend the bill which had been agreed upon by the Senate committee. This effort was partially successful, and the Senate bill was amended in some important particulars. As thus amended, although not entirely satisfactory to the Democratic members, it was reported to the two Houses on the 130 18th of January, 1877. The report was signed by all the members of the two committees, except Senator Oliver P. Morton of Indiana, and after considerable debate in the Senate and the House, the bill recommended by the committees became a law on the 29th of January, 1877.

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“The first section of the act provides that:

The Senate and the House of Representatives shall meet in the hall of the House of Representatives, at the hour of one o'clock, post meridian, on the first Thursday in February, 1877, and the President of the Senate shall be the presiding officer. Two tellers shall be previously appointed on the part of the Senate and two on the part of the House of Representatives, to whom shall be handed as they are opened by the President of the Senate all the certificates and papers purporting to be certificates of the electoral votes, which certificates and papers shall be opened, presented and acted upon in alphabetical order of the States, beginning with the letter A; and said tellers having then read the same in the presence and hearing of the two Houses, shall make a list of the votes as they shall appear from said certificates; and the votes having been ascertained and counted as in this act provided, the result of the same shall be delivered to the President of the Senate, who shall thereafter announce the state of the vote, and the names of the persons, if any, elected, which announcement shall be deemed a sufficient declaration of the persons elected President and Vice-President of the United States, and together with a list of the votes be entered on the journals of the two houses. Upon such reading of any such certificate or paper, when there shall be only one return from a State, the President of the Senate shall call for objections, if any. Every objection shall be made in writing and shall state clearly and concisely and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When the objection so made to any vote or paper from a State shall have been received and read, the Senate shall thereupon withdraw and such objections shall be submitted to the Senate for its decision; and the Speaker of the House of Representatives shall, in like manner, submit such objections to the House of Representatives for its decision. No electoral vote or votes from any State from which but one return has been received shall be rejected, except by the affirmative vote of the two Houses. When the two Houses have voted they shall immediately again meet, and the presiding officer shall then announce the decision of the questions submitted.

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“Section 2 provides, among other things, that:

If more than one return or paper purporting to be a return from a State shall have been received by the President of the Senate, purporting to be the certificates of electoral votes given at the last preceding election for President and Vice-President in such State (unless they shall be duplicates of the same return), all such returns and papers shall be opened by him in the presence of the two Houses when met as aforesaid 131 and read by the tellers, and all such returns and papers shall thereupon be submitted to the judgment and decision as to which is the true and lawful electoral vote of such State, of a commission constituted in the following manner, to-wit:

During the session of each House, on the Tuesday next preceding the first Thursday in February, 1877, each House shall, by a *viva voce* vote, appoint five of its members, who, with five of the Associate Justices of the Supreme Court of the United States, to be ascertained as hereinafter provided, shall constitute a commission for the decision of all questions upon or in respect to such double returns named in this section. On the Tuesday next preceding the first Thursday in February, 1877, or as soon thereafter as may be, the Associate Justices of the Supreme Court of the United States now assigned to the First, Third, Eighth and Ninth circuits, shall select, in such manner as a majority of them shall deem fit, another of the Associate Justices of the said Court, which five persons shall be members of the said commission, and the person longest in commission of said five Justices shall be the president of said commission. The members of said commission shall respectively take and subscribe the following oath:

“I,—, solemnly swear (or affirm, as the case may be) that I will impartially examine and consider all the questions submitted to the commission of which I am a member, and a true judgment give therein agreeably to the Constitution and the laws. So help me God.”

Which oath shall be filed with the Secretary of the Senate.

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When the commission shall have been thus organized, it shall not be in the power of either House to dissolve the same or withdraw any of its members.

“After providing for the filling of vacancies on the Commission the act further declares that:

All the certificates and papers purporting to be certificates of the electoral votes of each State shall be opened in the alphabetical order of the States, as provided in section one; and when there shall be more than one such certificate or paper, as the certificates and papers from such States shall be opened (excepting duplicates of the same return.) they shall be read by the tellers, and thereupon the President of the Senate shall call for objections, if any. Every objection shall be made in writing, and shall state clearly and concisely, and without argument, the ground thereof, and shall be signed by at least one Senator and one member of the House of Representatives before the same shall be received. When all such objections so made to any certificate, vote or paper from a State shall have been received and read, all such certificates, votes and papers so objected to, and all papers accompanying the same, together with such objections, shall be forthwith submitted to said commission, which shall proceed to consider the same, with the same powers, if any, now possessed for that purpose by the two Houses acting separately or together, and by a majority of the votes decide whether any and what votes from such State are the votes provided for by the Constitution of the United States, and how many and what persons were duly appointed electors in such State, and may therein take into view such petitions, depositions, and other papers, if any, as shall by the Constitution 132 and now existing law be competent and pertinent in such consideration: which decision shall be made in writing, stating briefly the grounds thereof, and signed by the members of said commission agreeing therein; whereupon the two Houses shall again meet, and such decision shall be read and entered in the journal of each House, and the counting of the votes shall proceed in conformity thereto, unless upon objection made thereto in writing by at least five Senators and five members of the House of Representatives, the two Houses shall separately concur in ordering otherwise, in which case such concurrent order shall

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govern. No vote or paper from any other State shall be acted upon until the objections previously made to the votes or papers from any State shall have been finally disposed of.

“The remaining sections of the act provided that while the two Houses shall be in meeting, no debate shall be allowed, and no question shall be put by the presiding officer, except to either House on the motion to withdraw; that when the two Houses separate to decide upon objections that may have been made to the Counting of any electoral vote or votes from any State, or upon objections to a report of said Commission, or other questions arising under the act, each Senator or Representative may speak to such objection or question ten minutes, and not oftener than once; but after such debate shall have lasted two hours it shall be the duty of each House to put the main question without further debate; that the joint meeting of the two Houses shall not be dissolved until the counting of the electoral votes shall be completed and the result declared; that the Commission shall make its own rules, keep a record of the proceedings, etc.

“In accordance with the provisions of said act, the Senate, on January 30, 1877, selected Senators Edmunds, Frelinghuysen, Morton, Thurman, and Bayard, and the House of Representatives selected Representatives Payne, Hunton, Abbott, Hoar, and Garfield as members of the Electoral Commission, and on the same day the four Associate Justices of the Supreme Court of the United States designated in the act selected Associate Justice Joseph P. Bradley as a member of the Commission.

“The Commission was organized in the Supreme Court room at the Capitol on the 31st of January, 1877. A committee, consisting of two Justices, two Senators, and two Representatives, was, on motion, appointed by the President, 133 Mr. Justice Clifford, to consider and propose the necessary rules of proceeding. At a meeting held on the afternoon of the same day, the Committee on Rules submitted their report.

“The second rule provided that any subject submitted to the Commission to be heard shall be considered, and counsel shall be allowed to conduct the case on each side.

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“The third rule provided that counsel, not exceeding two in number on each side, will be heard by the Commission on the merits of any case presented to it, not longer than two hours being allowed to each side. In the hearing of interlocutory questions, but one counsel shall be heard on one side, and he not longer than fifteen minutes, and printed argument will be received.

“The fourth rule provided that the objectors to any certificate or vote may select two of their number to support their objections in oral argument, and to advocate the validity of any certificate or vote the validity of which they maintain; and in like manner, the objectors to any other certificates may select two of their number for a like purpose. But under this rule not more than four persons shall speak, and neither side shall occupy more than two hours.

“On February 1, 1877, Mr. Justice Clifford, the President, notified the Senate and the House of Representatives that the Commission had organized and was ready to proceed with the performance of its duties.

“On the 1st day of February, 1877, the Senate proceeded to the hall of the House of Representatives, and Thomas W. Ferry of Michigan, President *pro tempore* of the Senate, as the presiding officer of the joint meeting of the two Houses, called them to order, and stated the object of the meeting. Before the joint meeting, the President *pro tempore* of the Senate had appointed William B. Allison of Iowa and John J. Ingalls of Kansas to act as tellers on the part of the Senate, and the Speaker of the House of Representatives had appointed Philip Cook of Georgia and William H. Stone of Missouri as tellers on the part of the House. The tellers having taken their places, he handed to them the certificates of the State of Alabama, giving ten votes for Samuel J. Tilden, as President, and ten votes for Thomas A. Hendricks, 134 as Vice-President. Objections were called for, and none being heard, the vote of Alabama was announced by Philip Cook, one of the tellers. The vote of the States of Arkansas, California, Colorado, Connecticut, and Delaware were then announced by the tellers, it appearing in each case that the certificate of the election of

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the electors was signed by the Governor of the State, and no objection being made to the counting of the votes.

“When the State of Florida was reached, he handed to the tellers three certificates, which were read by them. Certificate No. 1 was signed by M. L. Stearns, Governor, and attested by Samuel B. McLin, Secretary of State. It certified that the four electors who had voted for Rutherford B. Hayes, as President, and William A. Wheeler, as Vice-President, had been duly chosen as electors of President and Vice-President in conformity to the Constitution of the United States and to the laws of the State. Certificate No. 2 was signed by William Archer Cocke, Attorney-General of the State, and as such a member of the Board of State Canvassers. It certified that the four electors who had cast their votes for Tilden and Hendricks as President and Vice-President had been, according to authentic returns, duly chosen, and that under the act establishing the Board of Canvassers, no provision was made whereby the result shown by the returns to said Board can be certified to the Executive of the State. Certificate No. 3 was signed by George F. Drew, Governor, and attested by W. D. Bloxham, Secretary of State. It certified that in pursuance of an act of the legislature, approved January 17th, 1877, a canvass of the electoral vote as cast at the election held the 7th of November, 1876, had been made according to the laws of the State and the interpretation thereof by the Supreme Court, and that the Tilden and Hendricks electors had been duly declared to have been chosen at said election, as shown by the returns. It further certified, that in a proceeding on the part of the State by information in the nature of *quo warranto*, wherein the Tilden electors were relators and the Hayes electors were respondents, the Circuit Court of the State for the Second Judicial Circuit, after a full consideration of the law and the 135 Constitution, had determined that said relators were at such election, in fact and in law, elected such electors against the respondents and all other persons.

“After the reading of the three certificates by the tellers the presiding officer asked, ‘Are there objections to the certificates from the State of Florida?’ Whereupon, Representative Field presented an objection to Certificate No. 1, signed by Charles W. Jones, Senator

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from Florida; Henry Cooper, Senator from Tennessee; Joseph E. McDonald, Senator from Indiana; David Dudley Field, Representative from New York; John Randolph Tucker, Representative from Virginia; G. A. Jenks, Representative from Pennsylvania, and William M. Springer, Representative from Illinois, in which they objected to the counting of the votes of the Hayes electors and to the paper purporting to be the certificate of M. L. Stearns, as Governor, and to the votes themselves, upon the following grounds, among others:

“First. That the said Hayes electors were not appointed by the State of Florida in such manner as its legislature had directed, or in any manner whatsoever, as electors of President and Vice-President.

“Second. That the Tilden electors were appointed by said State in such manner as its legislature had directed.

“Third. The manner of appointing electors of President and Vice-President of the United States on behalf of the State of Florida was by the votes of the qualified electors at a general election held on the 7th of November, 1876, and the qualified electors did, on said date, execute the power by appointing the Tilden electors, which appointment gave to the appointees an irrevocable title that could not be changed or set aside or conferred on any other person.

“Fourth. That the pretended certificate signed by M. L. Stearns, as Governor, of the appointment of the Hayes electors, was, in all respects, untrue, and was corruptly procured in pursuance of the conspiracy between said M. L. Stearns and the said Hayes electors, with intent to deprive the people of the State of their right to appoint electors, and to deprive the Tilden electors of their title to such office, and to assert 136 and set up fictitious and unreal votes for President and Vice-President, and thereby to deceive the proper authorities of the Union.

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"Fifth. That the said papers falsely purporting to be votes for President and Vice-President of the State of Florida are fictitious and unreal, and do not truly represent any votes or lawful acts, and were executed in pursuance of the same fraudulent conspiracy by the persons purporting to have cast said votes.

"Sixth. That the said pretended certificate and the pretended lists of the electors so made by the said M. L. Stearns, if they had any validity, have been annulled and declared void by the subsequent lawful certificate of the Executive of the State, in which the said Tilden electors are truly and in due form declared to have been duly appointed by the said State, in the manner directed by its Constitution, and also by an act of the legislature, in which the title of the said Tilden electors is declared to be good and valid, and further by the judgment of the Circuit Court of the Second Judicial Circuit, before said pretended electors voted for President and Vice-President, whereby it was duly and lawfully adjudged by said court, after the Hayes electors had appeared, pleaded and put in issue the question of their own right and title, that they were not, nor was any of them, elected, chosen or appointed, and that they were not upon the 6th day of December, or at any other time, entitled to assume or exercise any of the powers and functions of such electors, but that they were mere usurpers, and that all their acts and doings were illegal, null and void. It was further adjudged by said court that said Tilden electors had been duly chosen, and were entitled to be declared elected and to receive certificates, to exercise and perform all the powers and duties of such electors; that the persons so chosen did, on the 6th day of December, 1876, cast the four votes of Florida for Tilden as President and Hendricks as Vice-President, and certified the said votes to the President of the Senate, in conformity with the Constitution, and that they did everything toward the authentication of said votes required by the Constitution of the United States or any act of Congress, except section 137 136 of the Revised Statutes. And in conformity with the aforesaid judgment of the Florida court, the Governor of Florida, who had been duly inducted into office subsequent to December 6, 1876, did, on the 26th of January, 1877, give to the said Tilden electors

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the triplicate lists prescribed by section 136 of the Revised Statutes, which they forwarded as a supplement to their former certification in that behalf.

“In support of their objections the objectors submitted numerous documents and papers. The presiding officer having asked if there were further objections to the certificates from the State of Florida, Senator A. A. Sargent presented three papers signed by himself, Senators S. B. Conover, John Sherman, H. M. Teller, and by Representatives William Washburn, Mark H. Dunnell, John A. Kasson, and George W. McCreary, containing objections to Certificates No. 2 and No. 3, upon the ground that they were not authenticated according to the Constitution and laws of the United States; that they did not include any certificate by the executive authority of the State of Florida of the lists of the names of the electors; that they are not accompanied by any valid or lawful certification or authentication of said electors, or any of them, as having been appointed to cast the electoral vote of the State of Florida, and upon the further ground that by the certificate of the electoral vote, in all respects valid and sufficient under the Constitution and laws of the United States, duly authenticated as such, transmitted, received and opened by the President of the Senate in the presence of the two Houses of Congress, it appears that the Hayes electors were duly appointed to cast the electoral votes, and that such electors did duly cast the electoral vote of the State of Florida, and did duly certify and transmit the same to the President of the Senate, by reason whereof the certificates objected to are not entitled to be received or read, nor are the votes therein stated, or any of them, entitled to be counted in the election of President and Vice-President.

“A further objection to Certificate No. 3 was presented by Senators A. A. Sargent and John Sherman and by Representatives John A. Kasson and S. A. Hurlbut, upon the following grounds: 138

“First. Because the same is not certified as required by the Constitution and laws of the United States; the certificate being by an officer not holding the office of Governor or any other office in said State with authority in the premises, at the time the electors were

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appointed, nor at the time when the functions of the electors were exercised, nor until the duties of the electors had been fully discharged by the lawful college of electors having the certificates of the Governor of Florida, at the time and the action of said lawful college duly transmitted to the President of the Senate, as required by law.

“Second. Because the proceedings as recited therein and certificate of qualification of the persons therein claiming to be electors are *ex post facto*, and are not competent under the law as certifying any right in said persons to cast the electoral vote of Florida.

“Third. Because the said proceedings and certificates are null and void of effect as retroactive proceedings.

“In addition to the foregoing objections, Senator Charles W. Jones and Representative Charles P. Thompson presented a further objection to the counting of the vote of F. C. Humphreys, one of the Hayes electors, upon the ground that he was appointed a Shipping Commissioner under the Government of the United States at Pensacola, Florida, on the 3d of December, 1872, and continued to hold said office continuously until and upon the 7th of November, 1876, and thereafter until and upon the 6th day of December, 1876, wherefore, the said F. C. Humphreys, at the time of his alleged appointment as elector, and at the time of the casting of his vote as elector, held an office of trust and profit under the United States Government, and could not be constitutionally appointed an elector as aforesaid.

“There being no further objections, the certificates and papers accompanying the same, together with the objections presented, were transmitted to the Electoral Commission for their judgment and decision.

“The Commission met at three o'clock p. m. on the 1st day of February, and after making certain orders as to the printing of papers, the method of proceeding, etc., adjourned to meet at half-past ten o'clock the following day.

“On that day, the 2d of February, after certain preliminaries had been arranged, Representatives David Dudley Field and John Randolph Tucker, objectors on the part of the Tilden electors, and Representatives John A. Kasson and George W. McCrary, objectors on the part of the Hayes electors, were heard at length. When the Commission met on Saturday morning the 3d of February, Charles O’Conner of New York, Jeremiah S. Black of Pennsylvania, Richard T. Merrick of Washington City, Ashbell Green of New Jersey, and William C. Whitney of New York appeared as counsel in opposition to Certificate No. 1, and at the same time, William M. Evarts of New York, E. W. Stoughton of New York, Stanley Matthews of Ohio, and Samuel Shellabarger of Ohio appeared as counsel in opposition to Certificates Nos. 2 and 3.

“After some discussion the Commission adopted a motion that counsel be allowed two hours on each side to discuss the question whether any evidence will be considered by the Commission that was not submitted to the two Houses by the President of the Senate, and, if so, what evidence can properly be considered, and also the question, What is the evidence now before the Commission? Upon further motion an additional hour was allowed to each side, and three counsel on each side were permitted to speak. Under that arrangement, Mr. Merrick was heard in support of objections to Certificate No. 1. He was followed by Judge Black on the same side. Mr. Matthews was then heard in support of the objections to Certificates No. 2 and No. 3. He was followed by Mr. Stoughton on the same side. The session of Monday, February 5, was occupied by Mr. Evarts and Mr. O’Conner in making the concluding arguments for the two sides respectively.

“Mr. Evarts, although one of the ablest and most accomplished lawyers in the United States, was distinguished for his long and involved sentences in speech-making. On this occasion, while he was addressing the Commission, the venerable George Bancroft, who sat near him, fell asleep in his chair, whereupon John Randolph Tucker, celebrated for

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140 his ready wit, turned to Mr. Jenks of Pennsylvania and, pointing to Mr. Bancroft, said, 'History sleeps while fiction speaks.'

"The Commission met on Tuesday, February 6, to deliberate upon the matters submitted. After a debate occupying the entire day, a motion was adopted to take the vote on the pending question not later than three o'clock on the next day.

"On Wednesday, February 7, the hour of three o'clock having arrived, Mr. Commissioner Miller moved the adoption of the following order: 'That no evidence will be received or considered by the Commission which was not submitted to the joint convention of the two Houses by the President of the Senate with the different certificates, except such as related to the eligibility of F. C. Humphreys appointed elector.'

"The question of the adoption of the order was decided in the affirmative, the vote being, yeas 8, nays 7; those voting in the affirmative being Messrs. Bradley, Edmunds, Frelinghuysen, Garfield, Hoar, Miller, Morton, and Strong; those voting in the negative being Messrs. Abbott, Bayard, Clifford, Field, Hunton, Payne, and Thurman.

"It was also ordered by a vote of eight to seven that the Commission will receive evidence relating to the eligibility of F. C. Humphreys, one of the persons named in Certificate No. 1 as an elector, those voting in the affirmative being Messrs. Abbott, Bayard, Bradley, Clifford, Field, Hunton, Payne, and Thurman, and those voting in the negative being Messrs. Edmunds, Frelinghuysen, Garfield, Hoar, Miller, Morton, and Strong.

"On Thursday, February 8, after hearing the testimony of witnesses as to the eligibility of F. C. Humphreys as an elector, the Commission listened to further argument addressed to them by Messrs. George Hoadley of Ohio, Ashbell Green of New Jersey, and Richard T. Merrick of Washington, D. C., on behalf of the Tilden electors, and by Messrs. Samuel Shellabarger of Ohio and William M. Evarts of New York, representing the Hayes electors.

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“On Friday, February 9, the Commission proceeded to deliberate with closed doors, and after considerable debate, 141 Mr. Commissioner Edmunds offered a resolution for which Mr. Commissioner Hunton proposed the following as a substitute: ‘That the electors named in Certificate No. 2, to-wit, Wilkinson Call, J. E. Yonge, Robert Bullock, and R. B. Hilton, are the four persons who were appointed electors by the State of Florida on the 7th day of November, 1876, and that their votes as certified in said certificate are the votes provided for by the Constitution of the United States.’

“The question being on the substitute, it was decided in the negative—yeas 7, nays 8; those voting in the affirmative being Messrs. Abbott, Bayard, Clifford, Field, Thurman, Payne, and Hunton, and those voting in the negative being Messrs. Bradley, Edmunds, Frelinghuysen, Garfield, Hoar, Miller, Morton, and Strong. Whereupon the resolution offered by Mr. Commissioner Edmunds was withdrawn, and Mr. Commissioner Garfield offered the following:

‘ Resolved, That the four persons, to-wit, Frederick C. Humphreys, Charles H. Pearce, William H. Holden, and Thomas W. Long, were duly appointed electors of President and Vice-President for the State of Florida, and that the votes cast by the aforesaid four persons are the votes provided for by the Constitution of the United States.’

“The question being on the adoption of the resolution, it was decided in the affirmative—yeas 8, nays 7; the Commission dividing as heretofore, eight Republicans and seven Democrats.

“On motion, Messrs. Edmunds, Bradley, and Miller were appointed a committee to draft the report of the action of the Commission, as required by law, which report was adopted and signed by the eight Republican members of the Commission, and transmitted to the President of the Senate and Speaker of the House of Representatives by the President of the Commission.

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“The two Houses having met in joint session on Saturday, February 10, and having received the decision of a majority of the Commission as to the electoral vote of the State of Florida, Mr. Representative Field submitted an objection to the decision and report, which objection was signed by himself and eleven other members of the House of Representatives, 142 and by six Senators. The Senate then retired to its chamber, so that the two Houses might respectively consider the said objection.

“In the Senate, Senator Sherman submitted a resolution that the decision of the Commission upon the electoral vote of the State of Florida stand as the judgment of the Senate, the objections made thereto to the contrary notwithstanding. It was agreed to by a vote of yeas 44, nays 25, and the secretary was directed to notify the House of Representatives that the Senate was now ready to meet the House to resume the counting of the electoral votes for President and Vice-President.

“On Monday, February 12, on motion of Representative Field, the House of Representatives, by a vote of 168 yeas to 103 nays, adopted a resolution that the counting of the electoral votes from the State of Florida shall not proceed in conformity to the decision of the Electoral Commission, but that the votes of Wilkinson Call, James E. Yonge, Robert B. Hilton, and Robert Bullock be counted as the votes of the State of Florida for President and Vice-President of the United States.

“The two Houses again met on the same day in joint session, and the presiding officer announced that the two Houses, not concurring in ordering otherwise, the decision of the Commission stood unreversed. Accordingly the four votes of Florida were counted for Mr. Hayes for President and for Mr. Wheeler for Vice-President.

“No objection being made to the certificates from the States of Georgia, Illinois, Indiana, Iowa, Kansas, and Kentucky, the votes of those States were announced by the tellers; Georgia, Indiana, and Kentucky for Tilden and Hendricks, and Illinois, Iowa, and Kansas for Hayes and Wheeler.

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“When the State of Louisiana was reached, three certificates were presented, and objection having been made by several Senators and Representatives, all the certificates and papers accompanying them, together with the objections thereto, were submitted to the Electoral Commission for its decision. At a meeting of the Commission on the same day 143 it was announced that Mr. McDonald of the Senate and Mr. Jenks of the House of Representatives would represent the objectors to the first and third certificates, and that the objectors to the second certificate would be represented by Mr. Howe of the Senate and Mr. Hurlbut of the House of Representatives. John A. Campbell of Louisiana, Lyman Trumbull of Illinois, Matt H. Carpenter of Wisconsin, Richard T. Merrick and Alexander Porter Morse of Washington, George Hoadley of Ohio, and Ashbell Green of New Jersey appeared as counsel in opposition to Certificates No. 1 and No. 3.

“William M. Evarts of New York, E. W. Stoughton of New York, Stanley Matthews of Ohio, and Samuel Shellabarger of Ohio appeared as counsel in opposition to Certificate No. 2.

“On Tuesday, February 13th, Senator McDonald and Representative Jenks submitted argument in opposition to Certificates No. 1 and No. 3. They were followed by Representative Hurlbut and Senator Howe in support of the objections to Certificate No. 2. Mr. Carpenter and Judge Trumbull were then heard as counsel for the Tilden electors upon the offer of proof and the merits. They were followed by Messrs. Stoughton, Shellabarger and Evarts as counsel for the Hayes electors, and the argument was concluded by Judge Campbell on behalf of the Tilden electors.

“On Friday, February 16, the Commission, having met pursuant to adjournment, decided by a vote of eight to seven, the Republicans voting in the affirmative and the Democrats in the negative, that they would not receive testimony on the subject of the alleged fraud, and that the persons named as electors in Certificate No. 1 (Hayes electors) were the lawful electors of the State of Louisiana, and that their votes are the votes provided by the Constitution of the United States, and should be counted for President and Vice-President. In their report to the President of the Senate they based their decision upon the ground

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that it is not competent, under the Constitution and the law, to go into evidence *aliunde* the papers opened by the President of the Senate in the presence of the two Houses of Congress, that other persons than those 144 regularly certified to by the Governor of the State of Louisiana on, and according to the determination and declaration of their appointment by the returning officers for electors in said State, prior to the time required for the performance of their duties, had been appointed electors, or by counter-proof to show that they had not, or that the determination of the State returning officers was not in accordance with the truth and the fact. They also decided that it is not competent to prove that any of the persons appointed as electors held an office of trust or profit in the United States at the time when they were appointed, or that they were ineligible under the laws of the State, or any other matters offered as proof *aliunde* the said certificates and papers.

“On Monday, February 17, the Senate by a vote of forty-one to twenty-eight, accepted the decision of the Commission as to the electoral vote of Louisiana, and the House of Representatives, by a vote of one hundred and seventy-three to ninety-nine, refused to accept the same. The two Houses not concurring in a contrary opinion, the decision of the Commission stood, and the tellers announced that Louisiana cast eight votes for Hayes and Wheeler.

“The count then proceeded, and the votes of Maine and Massachusetts for Hayes and Wheeler, and Maryland for Tilden and Hendricks, were counted without objection.

“The vote of one elector in Michigan was objected to on the ground that he had not been duly appointed, but the objection was overruled in both Houses. The votes of Minnesota and Nebraska for Hayes and Wheeler, and of Mississippi and Missouri for Tilden and Hendricks, were counted without objection. The vote of one elector in Nevada was objected to upon the ground that he had not been duly appointed, but the objection was overruled in both Houses.

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"The count then proceeded, and the votes of New Hampshire and Ohio for Hayes and Wheeler, and of New Jersey, New York, and North Carolina for Tilden and Hendricks, were counted without objection.

"When the State of Oregon was reached, two certificates were presented, Certificate No. 1, signed by W. H. Odell, J. W. Watts and John C. Cartwright (Hayes electors), showing 145 that the Governor and Secretary of State had refused to deliver to them certified lists of the electors; that they had been delivered to E. A. Cronin, one of the Tilden electors, and that they had procured from the Secretary of State certified copies of the abstract of the vote of the State of Oregon, showing that W. H. Odell and J. W. Watts had each received 15,206 votes and that J. C. Cartwright had received 15,204 and that E. A. Cronin, one of the Tilden electors, received 14,157 votes. It also showed that on a day fixed by the electors for a meeting of the electors the resignation of J. W. Watts as one of the electors was presented and accepted. Whereupon he was immediately, by the other two electors, chosen to fill the vacancy created by his own resignation.

"After they had thus organized they proceeded to cast the three votes of the State for Hayes and Wheeler. Certificate No. 2 was signed by the Governor and attested by the Secretary of State. It certified that W. H. Odell, John C. Cartwright, and E. A. Cronin having received the highest number of votes cast for persons eligible under the Constitution of the United States to be appointed electors for President and Vice-President, are hereby declared duly elected electors, as aforesaid, for the State of Oregon. Accompanying the Governor's certificate was a paper signed by E. A. Cronin, J. N. T. Miller and John Parker, certifying that on the 6th day of December, 1876, E. A. Cronin, Jno. C. Cartwright, and W. H. Odell, duly appointed electors, as appears by the Governor's certificate, convened at the seat of government for the purpose of discharging their duties as such electors; that thereupon John C. Cartwright and W. H. Odell refused to act as such electors; that upon said refusal J. N. T. Miller and John Parker were duly appointed electors to fill the vacancies caused by such refusal; and thereupon said electors, E. A.

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Cronin, J. N. T. Miller, and John Parker, proceeded to vote by ballot for President and Vice-President; that upon the ballot so taken Rutherford B. Hayes received two votes and Samuel J. Tilden one vote for President, and that William A. Wheeler received two votes for Vice-President and Thomas A. Hendricks received one vote. It will 146 be observed that the Governor issued a certificate to the persons whom he deemed to be eligible to appointment as electors. He did not consider J. W. Watts to be eligible, because he was in the month of February, 1873, appointed postmaster at Lafayette, in the State of Oregon, and was duly commissioned and qualified as such postmaster, that being an office of trust under the laws of the United States, and continued to act as such postmaster until after the 13th day of November, 1876, and was acting as such on the 7th day of November, 1876, when the Presidential electors were appointed. When Odell and Cartwright refused to recognize Cronin as an elector, and to act with him, he formally declared that there were two vacancies, and proceeded to fill them by the appointment of Miller and Parker. This incident created considerable merriment in Washington during the meeting of Congress.

“One gentleman facetiously remarked, ‘Cronin is like Melchizedek, King of Salem, without beginning of days or ending of years. He organized all by himself, he transacted the business all by himself, and then adopted a resolution of thanks to himself for the able and impartial manner in which he had presided.’

“After objections had been presented in writing to each certificate, Senator Kelly of Oregon and Representative Jenks of Pennsylvania appeared before the Commission to represent the objectors to Certificate No. 1, and Senator Mitchell of Oregon and Representative Lawrence of Ohio appeared to represent the objectors to Certificate No. 2. The following counsel also appeared: Richard T. Merrick, George Hoadley, Ashbell Green, and Alexander Porter Morse in opposition to Certificate No. 1, and William M. Evarts, E. W. Stoughton, Stanley Matthews, and Samuel Shellabarger in opposition to Certificate No. 2. Messrs. Hoadley and Merrick on one side, and Matthews and Evarts on the other, submitted elaborate arguments, after which the Commission decided by the usual vote of eight to seven that W. H. Odell, John C. Cartwright, and J. W. Watts, the persons named

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as electors in Certificate No. 1, were the lawful 147 electors of the State of Oregon, and that their votes are the votes provided for by the Constitution, and should be counted.

“In the Senate on February 24 it was resolved by a vote of forty-one to twenty-four that the decision of the Commission upon the electoral vote of the State of Oregon stand as the judgment of the Senate, the objections thereto to the contrary notwithstanding.

“The House of Representatives resolved on the same day, by a vote of one hundred and fifty-one to one hundred and six, that the vote purporting to be the electoral vote for President and Vice-President which was given by one J. W. Watts, claiming to be an elector for the State of Oregon, be not counted. At a joint meeting the presiding officer announced that the two Houses not concurring otherwise, the decision of the Commission will stand unreversed, and accordingly the tellers announced the three votes of Oregon for Hayes and Wheeler.

“An objection was made to the certificate from the State of Pennsylvania upon the ground that Henry A. Boggs, one of the electors, was not duly appointed according to law. In the Senate a motion was adopted without division that the vote should be counted, and in the House of Representatives it was resolved by a vote of one hundred and thirty-five to one hundred and nineteen that the vote should not be counted. In a joint meeting the presiding officer announced that the two Houses not concurring in an affirmative vote to reject, the vote of Pennsylvania would be counted, and accordingly the tellers announced that Pennsylvania cast twenty-nine votes for Hayes and Wheeler.

“Objection having been made to the counting of the vote of the State of Rhode Island upon the ground that William S. Slater was not duly appointed according to law, the objection was overruled by the two Houses acting separately, and in a joint meeting the four votes of Rhode Island were counted for Hayes and Wheeler.

“On the 26th of February, Allen G. Thurman, having tendered his resignation as a member of the Commission, on account of physical disability, the Senate elected Mr. Francis 148

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Kernan, Senator from the State of New York, as a member of the Commission, to fill the place so made vacant.

“When the State of South Carolina was called, two certificates were presented. Certificate No. 1 was signed by the Governor and Secretary of State, certifying that the Hayes electors had been duly chosen, and Certificate No. 2 was signed by the Tilden electors, certifying that they had been duly appointed, as will appear by a proper examination of the regular returns of the managers of the election for the different precincts made to their respective Boards of County Canvassers, which do not sustain and are therefore opposed to the statement of votes given for electors in the several counties forwarded and certified to the State Board of Canvassers by the managers of election or Boards of Canvassers in such counties. Certificate No. 1 was objected to on the following grounds among others:

“First. Because no legal election was held in the State of South Carolina for Presidential electors, the General Assembly of that State not having provided for the registration of the voters.

“Second. Because there was not existing in the State of South Carolina on the first day of January, 1876, nor at any time thereafter up to and including the 10th day of December, 1876, a republican form of government such as is guaranteed by the Constitution to every State in the Union.

“Third. Because the Federal Government, prior to and during the election on the 7th day of November, 1876, without authority of law, stationed in various parts of said State, at or near the polling places, detachments of the Army of the United States, by whose presence the full exercise of the right of suffrage was prevented, and by reason thereof no legal or fair election was or could be held.

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“Fourth. Because at several polling places there were stationed deputy marshals of the United States, over one thousand in number, who so interfered with the full and free exercise of the right of suffrage that a fair election could not be and was not held.

“Certificate No. 2 was objected to chiefly upon the ground that the said papers have not annexed to them a certificate 149 of the Governor, as required to be made and annexed by sections 136 and 138 of the Revised Statutes of the United States.

“Representatives Hurd of Ohio and Cochrane of Pennsylvania appeared on behalf of the objectors to Certificate No. 1. Senator Christiancy of Michigan and Representative Lawrence of Ohio appeared on behalf of the objectors to Certificate No. 2. Mr. Montgomery Blair and Judge Black made argument as counsel for the objectors to Certificate No. 1, no counsel appearing on the other side. The address of Judge Black before the Commission attracted universal attention. It was regarded by all who heard it as a most remarkable specimen of fierce denunciation, biting sarcasm, and withering invective. After the argument had been closed the Commission decided, by the usual vote of eight to seven, that the Hayes electors were duly appointed and were the lawful electors of the State of South Carolina.

“On Wednesday, February 28, the Senate resolved, by a vote of thirty-nine to twenty-two, that the decision of the Commission on the vote of South Carolina stand as the judgment of the Senate. The House of Representatives resolved that the objections to the decision of the Commission upon the electoral vote of South Carolina be sustained, and that said vote be not counted. Whereupon the tellers announced the seven votes of that State for Hayes and Wheeler.

“The count then proceeded, and the votes of Tennessee and Texas were counted, without objection, for Tilden and Hendricks.

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“After the objections to the vote of Henry R. Sollace, an elector of the State of Vermont, had been overruled by the Senate and sustained by the House, the five votes of that State were counted for Hayes and Wheeler.

“When Virginia and West Virginia were called, the eleven votes of the former and five votes of the latter were counted for Tilden and Hendricks.

“The certificate of the State of Wisconsin was next opened, and objection was made that Daniel L. Down, one of the electors for the State, was constitutionally ineligible 150 because he held the office of pension surgeon and of examining surgeon under the laws of the United States on the day of the Presidential election and on the day he assumed to cast his vote as elector for the State of Wisconsin. This objection having been overruled in the Senate and sustained in the House, the ten votes of Wisconsin were counted for Hayes and Wheeler.

“This concluded the count of the thirty-eight States, and the presiding officer, at four o'clock on Friday morning, March 2d, announced that Rutherford B. Hayes and William A. Wheeler had received 185 votes, and that Samuel J. Tilden and Thomas A. Hendricks had received 184 votes. Whereupon he declared that Rutherford B. Hayes and William A. Wheeler had been duly elected President and Vice-President of the United States for four years, commencing the 4th day of March, 1877.

“The counting of the electoral vote being completed and the result declared, the joint meeting of the two Houses was dissolved, and the Senate retired to its chamber. After the retirement of the Senate, Joseph C. S. Blackburn spoke in the House of Representatives. In his exordium he said:

Mr. Speaker,—The end has come. There is no longer a margin for argument, and manhood spurns the plea of mercy. And yet there is a fitness in the hour that should not pass unheeded. To-day is Friday. Upon that day the Saviour of the world suffered

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crucifixion between two thieves. On this Friday constitutional government, justice, honesty, fair dealing, manhood and decency suffered crucifixion amid a number of thieves.

“For several days preceding the declaration of the final result of the count, and as the 4th of March approached, there were scenes of disorder, excitement, uproar and confusion in the House of Representatives, such as had never been witnessed before. The decision of the Commission was a bitter disappointment to the Democratic members, and some of them determined by filibustering to prevent the further execution of the count. They interposed dilatory motions. They fiercely denounced the Speaker for refusing to entertain them. They rushed up and down through the Hall, shaking their fists at those who opposed them. They 151 shouted and raved and stormed like madmen. But a large portion of the Democratic members, especially those from the South, declined to become parties to the revolutionary scheme. And a real man was at the helm to guide the ship of state through the stormy waters, while the thunders rolled, the lightnings flashed, and the wild winds blew. Samuel J. Randall, the Speaker, rose to the great emergency and proved himself to be fully equal to the occasion. It was evident that the man and the hour had met. Unawed by threats, unmoved by denunciations, cool and determined, with his strong features firmly set, he performed his duty with a lofty courage and an indomitable will that have never been surpassed, not even by himself, when, as leader of the Democratic minority in the Forty-third Congress, he stood at his desk for seventy-two hours, without rest or sleep, hurled back the assaults made by the champions of the Force Bill, and by his parliamentary skill and extraordinary powers of endurance secured the defeat of that wicked attempt to impose upon the people of the South an iniquitous measure, which would have destroyed their liberties and subjected them to the rule of the bayonet.

“In reviewing the proceedings of the Electoral Commission the impartial student cannot fail to note with pain and mortification the lamentable fact that upon the vital questions submitted to them for decision they decided upon strictly party lines, eight Republicans voting one way and seven Democrats voting the other.

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“Why was this? When we voted to create the Electoral Commission, we supposed, as we had a right to suppose, that in such an hour of public peril, in the supreme moment of our destiny as a people, five Senators, five Representatives, and five Judges, belonging to the most august tribunal upon earth, could be found who would be capable of rising superior to all considerations of party, and deciding the great questions submitted to them like patriots and men, according to the Constitution and laws, in the fear of God, and in the spirit of the oath they were required to take. Far be it from me to impugn the motives of the honorable commissioners. Poor human nature is very weak, and it is charitable to presume 152 that if they were influenced in their judgment by any party bias or prejudice, they were not conscious of it at the time.

“But still the humiliating fact remains that upon every vital proposition they stood eight Republicans and seven Democrats.

“Mr. Justice Strong frankly admitted, in a letter addressed to Hon. George W. Jones, of Tennessee, bearing date February 26, 1877, that he feared a great wrong had been done in the Louisiana case. Mr. Justice Bradley said that he had serious doubts in the Florida case, and that he had written and rewritten several different opinions.

“In each case, they had based their decisions upon the ground that evidence *aliunde* the Governor's certificate could not be admitted by the Commission, which exercised such powers only as the two Houses of Congress possessed, and that the acts of a sovereign State, expressed through its regularly constituted authorities having jurisdiction of the matter, could not be inquired into by Congress.

“But it is worthy of note that not one of the Republican members of the Commission has attempted to explain the glaring inconsistencies of their different rulings. In the Florida case they decided it was not competent to give any evidence *aliunde* the papers opened by the President of the Senate in the presence of the two Houses, to show that other persons than those regularly certified by the Governor had been appointed electors, or

by counter-proof to show that they had not, and then they proceeded to say, as to the objection made to eligibility of Humphreys, 'The Commission is of opinion that, without reference to the question of the effect of the vote, and the ineligibility of the elector, the evidence does not show that he held the office of Shipping Commissioner on the day the electors were appointed.' In the first place, they decided that it would not be competent to go into evidence *aliunde* the papers opened by the President of the Senate in the presence of the two Houses, and, in the second place, they admitted, they did go into evidence *aliunde* to prove that Humphreys was not ineligible.

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"In the Louisiana case they decided it was not competent to prove that any of such persons so appointed electors aforesaid held an office of trust or profit under the United States at the time when they were appointed, or that they were ineligible under the laws of the State, or any other matter offered to be proved *aliunde* the said certificates and papers. In other words, they decided that it made no difference whether the elector was rendered ineligible by the Constitution of the United States, or the State of Louisiana, his vote must be counted. This decision was made notwithstanding section two, article two, of the Federal Constitution, which provides in express terms, that 'no person holding an office of trust or profit under the United States shall be appointed an elector.' And the Constitution of Louisiana provides, that 'no person shall at the same time hold more than one office.' Two of the Louisiana electors held office of trust and profit under the United States, and four of them were also officers of the State.

"In this connection it may be stated that during the count of the electoral vote in 1837 the question of the eligibility of electors was considered by a Senate committee, composed of Henry Clay, Silas Wright and Felix Grundy, who reported that:

The committee are of opinion that the second section of the second article of the Constitution, which declares that no Senator or Representative, or person holding an office of trust or profit, under the United States, shall be appointed an elector, ought to be

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carried in its whole spirit into rigid execution. * * * This provision of the Constitution, it is believed, excludes and disqualifies deputy postmasters from appointment as electors, and the disqualification relates to the time of appointment, and that the resignation of the office of deputy postmaster, after his appointment as elector, would not entitle him to vote as elector under the Constitution.

“In the Oregon case the Commission reversed their former technical ruling. In the Florida and Louisiana cases they held that the persons regularly certified to by the Governor of the State, and according to the determination of their appointment by the returning officers, were the legal electors. They also held evidence *aliunde* the certification not competent. Under the laws of Oregon the Governor and the Secretary 154 of State were the Returning Board. They certified that Odell, Cartwright, and Cronin had been duly appointed electors, and yet the Commission went behind these certificates and received evidence showing that Watts had been duly appointed elector instead of Cronin. If they had adhered to the same ruling made in the Florida and Louisiana cases they would have been compelled to count one vote in the State of Oregon for Tilden and Hendricks, which would have given 185 votes, a majority of all the votes cast. But such a decision would have been altogether technical, and not in accordance with the very right of the case, inasmuch as the certified abstract of votes clearly showed that the State of Oregon had voted for the Hayes electors by a decisive majority.

“The fundamental error of the Commission, in my humble opinion, was in refusing the offer of proof made by the counsel of the Tilden electors in the cases of Florida, Louisiana, and South Carolina. In the case of Florida they offered to prove that the certificates of the Returning Board were in violation of the State law; that every department of the State government had declared them illegal, null and void, and that the people of Florida had, in the mode prescribed by law, appointed Tilden electors by a decisive majority. In the case of Louisiana they offered to prove that a fraudulent conspiracy had been entered into to count the vote for the Hayes electors; that the certificate had been procured by bribery and forgery; that many thousands of votes for the Tilden electors had been illegally

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rejected by the Returning Board; that they had offered to sell the vote of the State, and that the Tilden electors had been appointed in the mode prescribed by law by at least eight thousand majority. In the case of South Carolina they offered to prove that there had been no registration of the voters; that at least three thousand illegal votes had been cast for the Hayes electors; that in the October preceding the election large numbers of United States soldiers had been sent into the State for the purpose of intimidating and overawing the voters; that said soldiers were stationed at and near the polls on election day; that their presence before and on the day of election interfered with the expression of the popular will and prevented a fair election; that deputy marshals were also stationed at the polls to prevent persons desiring to do so from voting the Democratic ticket, and that by reason of the lawlessness that existed in the county of Charleston alone, the Republican electors secured a majority of about seven thousand votes.

“Notwithstanding the Democratic members of the Forty-fourth Congress have been severely criticized for voting to create the Electoral Commission, I have no hesitation in expressing the opinion that with the lights before them, and under the circumstances by which they were surrounded, they acted wisely and patriotically.

“A large majority of the Republican members of the two Houses of Congress, under the leadership of Senator Morton, asserted and maintained the doctrine that for the purpose of counting the electoral vote the President of the Senate was clothed with judicial functions, and that he alone had power under the Constitution to declare the result.

“Mr. Ferry, President *pro tempore* of the Senate, coincided in that view. It was well known that President Grant intended, with the aid of military force, if necessary, to induct into office as his successor the person declared by the President of the Senate to have been duly elected.

“And again, when the bill creating the Electoral Commission was passed, it was generally understood that Mr. Justice Davis, of Illinois, would be selected as the fifth judge. The

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passage of the bill was vigorously opposed by some of the Republican leaders upon that ground. If he had been selected there would have been two Republican judges on the commission, Messrs. Miller and Strong; two Democratic judges, Messrs. Clifford and Field, and one independent in politics, Mr. Justice Davis. Unfortunately, however, about the time of the passage of the Electoral Bill the Illinois legislature elected Judge Davis to the United States Senate, and for that reason he declined to serve as a member of the Commission, and Mr. Justice Bradley was selected.

“The result of the electoral count was a grievous disappointment to the Democratic Representatives in Congress, because they fully believed that the Democratic candidates 156 had been fairly elected by the American people; but with some exceptions, they resolved unhesitatingly that it was the dictate of wisdom, of policy, of manhood, of patriotism, and of honor to stand by the compact into which they had deliberately entered, and to execute in good faith the law which was in a great part the creation of their own hands. The Electoral Bill was passed by Democratic votes. It was accepted by the country, not only as a peace measure, but as a Democratic measure. I submit that it would have been unfair, unjust, unwise, unmanly and unpatriotic to refuse to accord to the Republicans what as a party we would have unanimously demanded if the decision had been favorable to us and adverse to them. Besides, there was nothing whatever to be gained by resistance. The Democrats were absolutely powerless to make a successful fight. The Republicans had under their control the army, the navy and the treasury of the United States. The Democrats had no army, no navy, no commissariat, no treasury. In the event of a collision they would have been compelled to rely mainly upon volunteers from the South, that portion of the country which had not yet recovered from the ruinous and devastating effects of the war between the States, the greatest civil war known in the history of mankind.

“And again, we were given to understand by those who were nearest to Mr. Tilden that he was unalterably opposed to the employment of force. Mr. Abram S. Hewitt, the Chairman of the National Democratic Committee, and the recognized spokesman of the Democratic

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candidate, declared in the Democratic conference that Mr. Tilden would relinquish his claim to the Presidency before he would consent that one drop of blood should be shed in support of that claim. Some people attributed his position in the great crisis to infirmity of health and natural timidity of disposition, but I prefer to believe that he was actuated by high and patriotic motives, and that he was willing to put away ambition to save his country from the horrors of revolution.

“But although we lost the Presidency, all was not lost. Before the completion of the count an important conference was held between Messrs. Charles Foster and Stanley Matthews 157 of Ohio, two prominent Republican leaders, and John B. Gordon of Georgia and John Young Brown of Kentucky, two prominent Democratic leaders. In that conference Messrs. Foster and Matthews gave written assurances, from their knowledge of the views of Mr. Hayes, that he would adopt such a line of policy as would give to the people of Louisiana and South Carolina the right to control their own affairs in their own way. While it cannot be said that a bargain was made, there was a tacit understanding as binding between gentlemen as a written compact. The Southern Representatives as a general rule observed it by refusing to obstruct the further execution of the count, and Mr. Hayes, a gentleman of some excellent traits, observed it by withdrawing the Federal troops, and by recognizing the Democratic governments of Louisiana and South Carolina, thus restoring to the proud-spirited but unarmed and defenseless people of those two Commonwealths the blessings of home rule and honest administration.

“In any other country such a question as that decided by the Electoral Commission would have been submitted to the arbitrament of the sword. Whatever may be thought of the righteousness of that decision, it is a matter of sincere congratulation that the American people were willing to abide by it because it had been rendered in accordance with the law, which under our system is universally recognized as the supreme power in the land.

“Before closing it may be a matter of interest to refer to an incident connected with the formation of the Electoral Commission. It having been intimated to the Virginia delegation

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in Congress by members of the Democratic caucus that our State might be honored with a place on the Commission, provided we could agree on a candidate to be presented, we were unable to decide between Eppa Hunton and John Randolph Tucker. Whereupon it was determined that the matter should be decided by lot. Benjamin H. Hill of Georgia, one of the most brilliant orators and statesmen whom it has ever been my good fortune to meet, held the straws, and Hunton was the winner. Mr. Tucker rendered valuable and conspicuous service as one of the Representatives of the 158 Tilden electors before the Commission, and fully sustained his great reputation as a learned lawyer and eloquent advocate. General Hunton, as a member of the Commission, dignified and adorned the high station by his admirable judicial temper, and delivered opinions in the Florida, Louisiana, Oregon, and South Carolina cases which will long stand as monuments to his wisdom, learning and patriotism.

“It will thus be seen that in this as in every great crisis of the country's history the sons of the Old Dominion proved themselves in every respect worthy of her hereditary renown and her pristine glory.”

I also append the following remarks submitted by myself in the House of Representatives during the counting of the electoral vote.

“Mr. Goode.—No gentleman upon this floor supported the bill creating the Electoral Commission more cordially and earnestly than I did. No gentleman here is more willing to accept his full share of the responsibility attaching to the creation of that Commission. No gentleman here or elsewhere was more grievously disappointed when it became apparent that a majority of that Commission were unwilling to hear and determine the matters submitted to them according to the truth and the very right of the case. I supported the bill in the interest of peace, of law, and of order. I believed, whatever might be said of Senators and Representatives, that five judges of the Supreme Court might be found who would be willing and able to rise superior to considerations of party and of section and to

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decide the question in the fear of God and in the spirit of the oath which they were required to take.

“But, sir, the question now arises, what shall be done by the representatives of the people in this great public emergency? I answer unhesitatingly that we must do unto others as we would have them do unto us under like circumstances; that we must accord to the Republican party what as a party we would unanimously have demanded if the decision had been favorable to us and adverse to them. If the pound of 159 flesh must be paid, and Shylock will have it, let him have it, because it is so nominated in the bond; but let him see to it that in taking the forfeit he shall not spill one drop of Christian blood. This bill was passed by Democratic votes. It was hailed by the country as not only a peace measure, but a Democratic measure. And, sir, my deliberate judgment is that it would be not only unwise, but unmanly, to attempt to reverse the decision by any indirect method or by any clamorous complaints. In my judgment, it is the dictate of wisdom, of policy, of manhood, and of honor to stand by the compact into which we have deliberately entered, and to execute in good faith the law which we have made. So much on that point.

“Now, sir, as to the matter under consideration. The time was, in the golden age of the Republic, when the voice of South Carolina was potential in these legislative halls. The names of her Lowndes, her Pinckney, her Rutledge, her Hayne, her MacDuffie, her Calhoun, her Legare, and other illustrious sons will be cherished as household words in the land so long as liberty has a votary or the noble attributes of humanity find a location in the breasts of our people. Today South Carolina is voiceless here, so far as the intellect, the intelligence, the real worth of that once proud State are concerned.

“‘The harp that once through Tara's halls
The soul of music shed,
Now hangs as mute on
Tara's walls
As if that soul were dead.’

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“Louisiana and Florida, through their noble Representatives on this floor, have been heard in eloquent and indignant protest against the grievous wrong which has been inflicted upon them, and “‘Against the deep damnation of their taking off.’

“So far as those young Commonwealths are concerned, the deed has been done, the books have been closed, the fiat of the Electoral Commission has gone forth, and now the lifting of the curtain in the closing act of the drama discloses to the 160 gaze of forty millions of freemen, South Carolina, one of the original thirteen States, sitting, like Niobe, all tears, mute and voiceless in her woe, with manacles on her limbs and the hand of the despot upon her throat.

“Sir, I announce it as a fundamental proposition, upon which I wish to invoke the deliberate judgment of the American people, that on this roll-call of States in the selection of Chief Magistrate the vote of no State should be counted which has been carried at the point of the bayonet; and if the enunciation of that proposition does not touch a responsive chord in the breasts of the American people, then is their glory departed and the blood of the Saxon no longer courses in their veins.

“If military interference on the part of the Executive with the freedom of elections in the States of this Union shall be permitted to go unchallenged by the representatives of the people and to pass into history as a precedent, then it is useless to deny the fact that the public liberties are seriously imperiled. Edmund Burke said:

It is by lying dormant a long time or being at first very rarely exercised that arbitrary power steals upon a people.

“No greater danger could possibly threaten us than the interposition of the military arm of the Government in the conduct of elections. The voices of the past, the traditions of the Mother Country, and the warnings of the fathers of the Republic, all furnish beacon-lights to guide us upon this subject.

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“In the reign of George II the British Parliament enacted a law that no troops should come within two miles of any place except the capital or a garrisoned town during an election. And when the military had been called out to quell an alleged riot at Westminster election in 1741 it was resolved ‘that the presence of a regular body of armed soldiers at an election of members to serve in Parliament is a high infringement of the liberties of the subjects, a manifest violation of the freedom of election, and an open defiance of the laws and constitution of this kingdom’; and the House of Commons ordered the persons concerned to 161 attend the House, where they were compelled to submit to a severe reprimand from the Speaker. And so cautious was George Washington in the exercise of the military power while he was President that he would not even call out the militia to put down the whisky insurgents in the State of Pennsylvania, who had been hardy enough to perpetrate acts which amounted to treason, being overt acts of levying war against the United States, without first sending commissioners to represent to them ‘how painful an idea it is to exercise such a power, and that it is the earnest wish of the President to render it unnecessary by those endeavors which humanity or love of peace and tranquillity and the happiness of his fellow-citizens dictate.’

“What are the facts in regard to South Carolina? We have seen her State government overthrown, her legislative assembly dissolved, and an alien adventurer installed as her Governor by the power of the Federal bayonet. We have seen her patrimonial estates confiscated by the hungry vultures who have flocked there to feed and fatten on her vitals. We have seen the mandate of her Supreme Court nullified by the simple edict of a Federal judge, who has exhibited all the subservience and servility of a Jeffreys without any of his talent or ability. We have seen her proud-spirited but helpless and unarmed people disfranchised and subjected to the arbitrary rule of military masters. We have heard the wail of agony and of woe as they reel and stagger under the grievous load of a burdensome taxation and cry out in bitter agony of soul, ‘How long, O Lord, how long!’

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“The testimony of our committee shows that in the recent campaign and on the day of election there were United States troops posted all over that State; that they were sent there, without legal excuse, to control the election, to overawe the people, and intimidate them in the exercise of the elective franchise. It shows that even while this Congress has been in session the American people have seen the State-house at Columbia filled by soldiers of the Regular Army, with fixed bayonets, guarding the entrance to its halls, while the corporal of the guard inspected and decided upon the credentials of the members. They have seen an armed soldiery employed 162 for the illegal and unconstitutional purpose of sustaining a bogus Governor and a usurping legislature, against the solemn judgment of the Supreme Court, composed of Republican judges. And, as if to cap the climax of the iniquity and to fatigue the indignation of the American people, we have had issued by the President of the United States within the last few days an imperial edict forbidding the citizen soldiers of South Carolina to assemble peaceably for the purpose of celebrating the birthday and commemorating the virtues of the Father of His Country.

“And all this was done that order might reign in Warsaw, and upon the ridiculous assumption that it was necessary to preserve the public peace. Mr. Speaker, under a full sense of the responsibility resting upon me, I declare in the presence of this House and the country that the real disturbers of the public peace in South Carolina have been General Grant and his coadjutors, while the only promoters of the public peace, have been that Chevalier Bayard, that king of men, Wade Hampton and his devoted followers.” (Applause.)

Chapter XI The 45th Congress—My Virginia colleagues—Some distinguished members on both sides—The Speakership—Committee assignments—The 46th Congress convened in extraordinary session—Prominent members—Defeated as candidate for 47th Congress—The Readjuster party in control in Virginia—Mr. Massey and the billy-goat—Preliminary celebration at Yorktown—Bright sally of Major Bemiss—John Randolph of Roanoke.

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The 45th Congress was, by proclamation of the President, convened to meet in special session on the 15th of October, 1877. My colleagues from Virginia were Beverly B. Douglas, Gilbert C. Walker, George C. Cabell, John Randolph Tucker, John T. Harris, Eppa Hunton, A. L. Pridemore, and Joseph Jorgensen, the last named being a Republican member. This House was composed of many able and distinguished members; among whom I may mention on the Democratic side, Samuel J. Randall, S. S. Cox, John G. Carlisle, Alexander H. Stephens, W. R. Morrison, John H. Reagan; and on the Republican side, James A. Garfield, William McKinley, Thomas B. Reed, W. P. Frye, N. P. Banks, B. F. Butler, and Charles Foster. In the Democratic caucus for the purpose of nominating a Speaker, I had the honor to receive a very considerable vote for that high office. This vote was cast by the low-tariff Democrats who were not inclined to support Mr. Randall on account of his high protection principles. Mr. Randall was chosen by a large majority in the caucus and was elected Speaker by the House in opposition to James A. Garfield, the Republican nominee.

I had the honor to be appointed a member of a committee of three appointed by the House to join a like committee on the part of the Senate and notify the President that a quorum of the two Houses had assembled and were ready to receive any communication he might be pleased to make. 164 Mr. Garfield and Mr. Sayler were the other two members of the House Committee. I was appointed a member of the Committee on Naval Affairs and also made chairman of the Committee on Education and Labor. During the session I reported from that committee a bill to reimburse the College of William and Mary for losses incurred during the war. This bill became a law at a subsequent session.

Beverly B. Douglas was one of the foremost men of his day. As a member of the Virginia Senate he achieved a great reputation as a logical and powerful debater. I remember hearing Mr. A. H. H. Stuart say on one occasion that he had served in the House of Representatives with Stephen A. Douglas and in the Virginia Senate with Beverly B. Douglas and that he considered the latter to be in every respect the equal of the former

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as a strong and vigorous debater. He was elected to the Forty-fourth and Forty-fifth Congresses as a member from the First Congressional district of Virginia, but owing to failing health he did not attain that position in the National councils which his numerous friends and admirers had fondly anticipated. He died in the city of Washington, and on the 22d of January, 1879, I had the honor to submit the customary resolutions of respect and condolence in the House of Representatives. On that occasion remarks were made by Messrs. Pollard, Hooker, Walker, Springer, Dunnell, Pridemore, Clark, Tucker, and myself. Mr. Tucker, in his address, paid a high tribute to the country lawyer. This admirable delineation of a character now rapidly passing away is well worthy of a perusal by all the members of the profession.

A committee of Senators and Representatives attended by the Sergeant-at-Arms of the House and others, making altogether quite a large party, accompanied the remains to the family burial-ground in King William County. On the trip, going and returning, we were very hospitably entertained by Mr. John B. Davis, a brother of ex-Senator Henry G. Davis, at his home on the York River Railroad known as Lester Manor. He furnished our large party of twenty-eight with two magnificent dinners and an elegant breakfast. When we took leave of him on our return trip the Sergeant-at-Arms asked him for his bill, to which he replied, "I have no bill, sir." When this was reported to the committee, two members went to Mr. Davis and insisted on his accepting compensation. They told him that the money to pay all necessary expenses had been provided by the Government, that it did not come out of the pockets of the committee, and they thought it only fair and just to himself that he should receive remuneration. Mr. Davis replied with some feeling, "Gentlemen, Beverly Douglas was my personal friend and my Representative in Congress. You gentlemen have accompanied his remains to their last resting-place. I have been glad of an opportunity to entertain you at my home and I shall be very much obliged if you will say no more about a bill." What a striking illustration of that abounding hospitality for which the people of Virginia have been distinguished since the earliest days of the colony. The historian Beverly, in writing of the colony in 1705, says, "The inhabitants are

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very courteous to travelers, who need no other recommendation but their being human creatures. A stranger has no more to do than to inquire upon the road where any good gentleman or housekeeper lives and then he may depend upon being received with hospitality. This good nature is so general among their people that the gentry, when they go abroad, order their principal servant to entertain all visitors with everything the plantation affords.”

On the 4th of March, 1879, the President issued his proclamation convening the 46th Congress in extraordinary session, and they met on the 18th of March, 1879. Among the more prominent members of the House of Representatives I may mention Samuel J. Randall, S. S. Cox, Robert McLane, Fernando Wood, Alexander H. Stephens, Hilary A. Herbert, John A. McMahon, Frank H. Hurd, J. Proctor Knott, J. C. S. Blackburn, W. R. Morrison, W. M. Springer, Adlai E. Stevenson, and Richard P. Bland on the Democratic side; and on the Republican side, Thomas B. Reed, Wm. P. Frye, George B. Loring, George D. Robinson, Nelson W. Aldrich, Levi P. Morton, Frank Hiscock, George M. Robeson, William McKinley, William D. Kelley, and Joseph D. Cannon. My colleagues in the House from Virginia 166 were R. L. T. Beale, Joseph E. Johnston, George C. Cabell, John Randolph Tucker, John T. Harris, Eppa Hunton, James B. Richmond, and Joseph Jorgensen, the last named being a Republican. Samuel J. Randall was reelected Speaker of the House in opposition to James A. Garfield, the Republican candidate, and I was reappointed chairman of the Committee on Education and Labor and also a member of the Committee on Naval Affairs.

In 1880 I was defeated as a candidate for the 47th Congress by John F. Dezendorf, a Republican. This result was brought about by an unfortunate division in the Democratic ranks on account of the Virginia debt question. There were three candidates in the field—John F. Dezendorf, the regular Republican candidate; Benjamin W. Lacy, the Readjuster candidate, and myself as the candidate of the debt payers. The Democratic party in the district being hopelessly divided between Judge Lacy and myself, and the Republican party being thoroughly united upon Mr. Dezendorf, he was elected, as a matter of course.

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The Readjuster party, organized by General Mahone in 1879, got control of the State government in all its departments—Legislative, Executive, and Judicial. In 1881 they elected William E. Cameron, Governor, both branches of the General Assembly, all the judges, and all the subordinate officers. Their victory was complete and overwhelming.

The Readjuster party, so called, was organized in February, 1879. General Mahone was its recognized leader, and he had an able corps of lieutenants, such men as William E. Cameron, John Paul, H. H. Riddleberger, S. V. Fulkerson, and John E. Massey. The last named had thoroughly mastered all the details of the debt question and exhibited unusual tact and adroitness in debate. On that question he was a foeman worthy of any man's steel. It was his invariable habit to insist upon making the last speech in his debates with speakers on the other side, and being unlimited as to time. The debt payers were very reluctant to submit to his terms, and sometimes refused to do so. On one occasion when he was addressing a large audience in a warehouse at the city of Lynchburg, some young men hitched a billy-goat 167 to a go-cart, and driving through the crowd presented themselves immediately in front of the platform occupied by Mr. Massey. He stopped a moment in his harangue, looked at the young men, and said, "Now, gentlemen, this is too bad; here I have been all the afternoon negotiating without success to arrange terms for a joint discussion, and now at this late hour you come and present to me the leader of your party." It is needless to add that the young gentlemen beat a hasty retreat. The Readjuster party was overwhelmingly defeated in 1883 and again in 1885 under the leadership of John S. Barbour, a noble gentleman and most adroit tactician in political management.

While I was a member of the House of Representatives of the 46th Congress I introduced a bill which afterwards became a law, providing for the erection of a monumental column at Yorktown in accordance with the original design of the Continental Congress, and providing also for a Centennial Celebration on the 19th of October, 1881. A joint committee, consisting of thirteen Senators and thirteen Representatives, was appointed to carry into effect the provisions of the law referred to. John W. Johnston, senior Senator from Virginia, was chairman of the Senate Committee, and I had the honor to be appointed

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chairman of the House Committee. I also had the honor to be elected the President of the Yorktown Centennial Association, which was organized for the purpose of assisting in the Centennial Celebration at Yorktown, where the culminating scene of the great drama of the Revolution was enacted.

In October, 1879, a preliminary celebration was held at Yorktown which was attended by the Governors of all the Colonial States. There was an officer of the British Army, one Major Bemiss, who was invited to take a seat on the platform. As is the custom in Virginia, wherever two or three are gathered together there must be speech-making. After all the Colonial Governors had spoken, some young men in the crowd, who had become a little hilarious from indulgence in mint juleps, began to call upon the British officer to make a speech. They called out, "Bemiss, Bemiss, Major Bemiss; a speech from Major Bemiss!" In response to the call, he came forward to the front of the platform, lifted his hat and said: "Gentlemen, your call takes me entirely by surprise. I feel that I am in the wrong pew anyway; but since I am called upon to speak, I suppose I must say something, and I have this to say, that since I arrived at Yorktown and looked around here I am not at all surprised that my distinguished countryman, Earl Cornwallis, was willing to give up the place." This bright sally completely turned the tables on the mischievous young men and Major Bemiss became the hero of the hour.

John Randolph of Roanoke once said that "the House of Representatives is a slaughter-house of local reputation." At present it is composed of 386 members. As a general rule, when they assemble they are entire strangers to each other. The new member who arises to speak for the first time passes through a terrible ordeal. Unless there is something remarkable in his appearance or manner or in what he has to say he attracts no attention and is not listened to. Many years ago a talented and distinguished member of the bar of the city of New York was prevailed upon to come to the House. His friends predicted a brilliant career for him. After a while he determined to make his maiden speech upon a bill which had been made a special order for a certain day. He notified his friends at home and they came in great force to witness his triumph. They took their seats in the

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gallery and waited impatiently. When the hour of one o'clock arrived, at which the special order was to be considered, the new member took the floor and commenced his speech; but to his great horror and dismay he found that nobody seemed to be listening to him. The members were engaged in reading, writing, talking, and in various other ways. He floundered about a few minutes and sat down in great disgust. He never attempted to speak again in the House. He was one of those men who are so constituted that they cannot speak at all unless they can get up an electric current between themselves and the audience. There is a vast difference between the estimate in which the average member of Congress is held in Washington and that in which he is held by his own people at home. This is strikingly illustrated by a 169 letter which appeared some years ago in the public prints purporting to have been written by the daughter of a newly elected member. She wrote to a friend that when papa was elected the young men of the town came to the house with a band of music and serenaded him; that papa came out on the porch and made a speech to them; that after the speech they all went down the street, hurrahing for papa; that when papa left home to come to Washington the people of the town attended him to the railroad station, and when the train moved off they waved their hats and handkerchiefs and filled the air with their shouts; that when papa reached Washington she fully expected to see a large crowd of people at the station waiting to receive him; but there was nobody there at all, and when he went down Pennsylvania Avenue nobody seemed to know it was papa. This young lady's idea of Congress was very different from that of the old lady who had a wild, wayward son. One day, when she was scolding him severely for some of his misdoings, she concluded by saying, "My son, the way you are going on you will land some day either in the penitentiary or in Congress."

Chapter XII Return to the practise of law—Appointment as Democratic elector on Cleveland ticket—Appointed Solicitor-General of the United States—Senate refuses to confirm my nomination on purely political grounds—The Bell telephone patent case—Associated with Allen G. Thurman—Represent the United States in British Columbia—Conversations with Mr. Cleveland—Commissioner of the United States

to settle claims between Chile and our country—Some great lawyers I have known—Judah P. Benjamin's rule for fixing fees—Incidents of notable trials—Mr. Wise and Mr. Voorhees—My address as president of the Virginia State Bar Association.

After the final adjournment of the 46th Congress in March, 1881, I returned to the city of Norfolk with a view of resuming the practise of my profession. But I had been so long absent in attending to my public duties that I found I had lost all my practise and my clients had engaged the services of other attorneys. Nor is this to be wondered at; we cannot serve two masters. We cannot engage successfully in politics and in the practise of the law at the same time. My office was crowded every day, not with clients, but with local politicians anxious to discuss the political situation. The result was that I determined to open a law office in Washington, and have ever since practised my profession in that city, although I still claim my legal residence in Bedford City, Virginia, and vote there at every election.

In 1884 I was appointed one of the Democratic electors on the Cleveland ticket. In that capacity I made an active canvass of the State, and after the election had the honor to be chosen president of the College of Electors when they met in the city of Richmond to cast the vote of the State.

After the inauguration of Mr. Cleveland as President, I was appointed Solicitor-General of the United States upon the recommendation of my friend A. H. Garland, the Attorney-General, and discharged the duties of that position until August, 1886, when the Senate refused to confirm my nomination 171 and I retired from the office. All the Democratic Senators voted to confirm my nomination and all the Republican Senators who voted at all, voted to reject it. It was made a strictly party question. As to the methods employed to defeat my confirmation, I could a tale unfold that would be exceedingly interesting, but as the principal actors in the matter have passed from the scenes of earth, I do not think it would be altogether in good taste for me to do so. I have always had great respect for the old Latin maxim, *nil de mortuis nisi bonum*. Suffice it to say, that no charge was made by

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my opponents which reflected in the least upon my character as a man, and that the fight made against me was altogether a political one. Many Republican Senators declared to my friends that the question of my confirmation having been made a party question, they felt bound to sustain the action of their party.

During my incumbency of the office it became my duty to act as Attorney-General whenever Mr. Garland was sick or absent. On one occasion while he was absent, and temporarily sojourning at his home in Arkansas, I gave permission, as Acting Attorney-General, to the United States District Attorney for the Western District of Tennessee to institute a suit in the name of the United States for the purpose of testing the validity of the Bell telephone patent. A demurrer to the bill was interposed upon the ground that as Acting Attorney-General I had no legal right to authorize such suit. This question was finally decided in favor of the Government by the Supreme Court of the United States, the opinion being delivered by Mr. Justice Miller, one of the most learned men who ever adorned the bench. The Bell Telephone Company was represented by many able and distinguished lawyers. Among those employed by the Government to assist me was Allen G. Thurman of Ohio, one of the greatest men whom it has ever been my good fortune to meet. During the progress of the suit I saw a great deal of him and enjoyed greatly his delightful conversation. In the prosecution of the suit we attended, together, the Federal Courts in Cincinnati, Columbus, and Boston. During our stay in Cincinnati the Old Roman was serenaded one night at the Gibson House 172 by the Thurman Club. Soon after the band began to play a large crowd of people assembled in front of the hotel and called vociferously for "Thurman, Thurman!" The old gentleman, in answer to the call, came out with feeble and tottering steps to the veranda, and addressed the multitude. Never shall I forget the opening sentences of that address. He said in that clear, resonant voice, peculiar to him: "When I was a boy I read Cicero de Senectute, Cicero on old age, and since I arrived here and met the Thurman Club, my only regret is, that Cicero did not have a Ciceronian Club to afford comfort and consolation to him in his old age. My sun is fast sinking in the horizon. Never again will I hold public office. Never again

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will I be a candidate for office, therefore I have no friends to reward and no enemies to punish." Little did he think at that time that in a few months he would be a candidate for the Vice-Presidency of the United States. He was perfectly sincere in the declaration, but when nominated by the Democratic party in the St. Louis Convention he very reluctantly consented to accept.

In the summer of 1886 I was sent to British Columbia to represent the United States in an important case of extradition. The postmaster of Lewiston, Idaho, being charged with forgery and having absconded from the country, was arrested at Vancouver Island and taken to Victoria. At that time the treaty between the United States and Great Britain made no provision for extradition in a case of embezzlement. On the trial before the Supreme Court at Victoria, the attorney for the accused insisted that if his client had been guilty of any offense at all, it was the offense of embezzlement, for which, under the treaty then in force, he could not be extradited. But the court held it to be a case of forgery and a warrant for his extradition was issued by the Government at Ottawa. I did not make an oral argument before the court because, under their rules, it would have been necessary for me to array myself in a gown and wig, but I contented myself with preparing a full brief in the case and employing a local attorney to read it to the court.

When I went to British Columbia, on the business referred to, I was accompanied by my friend Fred T. Dubois, at that 173 time United States Marshal in Idaho, and now one of the Senators from that State. As the representatives of the United States we were treated with marked courtesy and distinguished consideration by the authorities and the people at Victoria, and were the recipients of much elegant hospitality at their hands. The court before which we appeared consisted of a Chief Justice and four Associate Justices, and I have never been in a court-room in which such perfect order and decorum were observed. As I have already stated, the members of the bar were required to appear in gown and wig or they would not be recognized. One day while the court was calling the calendar, a case in, which a young lawyer named Walls was interested was called by the Chief Justice. Not expecting the case to be called that day, Mr. Walls had failed to array himself before

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coming into the court-room. When his case was called, and he arose to address the court, the Chief Justice said very promptly, "We can't see you, Mr. Walls; we can't see you, sir."

During my service as Solicitor-General I frequently had occasion to call upon Mr. Cleveland in connection with the business of the Department of Justice. After transacting the business upon which I had called, I had frequent conversations with him in regard to matters of public interest. He sometimes exhibited a want of tact as a party leader, but he was undoubtedly great in his high office and never failed to measure up fully to all the requirements of the occasion. He was thoroughly honest, sincere and self-reliant. He will go into history as one of our greatest Presidents, and his state papers will compare favorably with any that have ever been issued from the Executive Department.

In 1888, when I attended the State Democratic Convention that met at Norfolk to prepare for the pending Presidential campaign, I met an old Democrat from the county of Grayson. When I inquired of him as to the preferences of his people, "Why," he said, "they are all for Cleveland. You should have been at our court-house last Monday when the people were assembled to send delegates to this place. Every time any of the speakers made reference to Mr. Cleveland, the applause of the people was so great that it seemed 174 to me they would take the roof off of the court-house." I said, "My old friend, I wish to ask you a plain question: When those people who live in log cabins on the mountainside, who never saw Mr. Cleveland, and never expect to see him, and want nothing but good, honest government, meet at the neighborhood store or the post-office, or at the church Sunday morning waiting for the preacher to come, if anything is said about Mr. Cleveland, what do they say?" He promptly replied, "They say three things—In the first place, they say he is honest; in the second place, they say he is the poor man's friend; and in the third place, they say he is the boss dog in the tan yard." In other words, they believed that he had convictions and the courage of his convictions and that he could stand four square to any wind that blew. Mr. Cleveland was defeated by President Harrison in 1888, but was again

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nominated and triumphantly elected in 1892. It was certainly a high distinction to be three times nominated and twice elected to fill the highest office in the gift of the people.

When the Democratic Convention met in Richmond to send delegates to the National Democratic Convention at Chicago, there was great division of sentiment among the delegates. David B. Hill of New York had a large following, but a majority of the convention undoubtedly favored the nomination of Mr. Cleveland. After a very exciting and stormy session, a compromise was agreed upon in order to prevent a disruption of the party. Of the four delegates at large who were chosen by the convention, two were the avowed advocates of Mr. Cleveland and two favored the nomination of Mr. Hill, the remaining twenty delegates being chosen in the District Conventions. I had the honor to be chosen as one of the Cleveland delegates at large and to be selected as chairman of the Virginia delegation. It also became my duty to address the convention in reply to Senator Daniel, the recognized leader of the Hill forces in Virginia. When the roll was called in the convention, I was instructed by my colleagues to cast the vote of Virginia as follows: Twelve votes for Grover Cleveland of New York, eleven votes for David Bennett Hill of New York, and one vote for Arthur P. Gorman of Maryland.

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During Mr. Cleveland's second term I had the honor to be appointed Commissioner of the United States under a convention between the United States and the Republic of Chile for the settlement of certain claims of the citizens of either country against the other, signed at Santiago, August 7, 1892. The other two Commissioners were Domingo Gana, who represented the Republic of Chile, and Alfred de Clapere de, appointed by the Swiss Confederation. The Commissioners met pursuant to arrangement at the office of the Secretary of State in the city of Washington, July 25, 1893, and having exhibited to each other their credentials, made and subscribed a declaration that they would impartially and carefully examine and decide to the best of their judgment and according to public law, justice and equity, without fear, favor or affection, all claims within the description and true meaning of Articles 1 and 2 of said convention which should be laid before

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them, At the same time George H. Shields was recognized as agent and Arthur W. Ferguson was recognized as secretary on the part of the United States and Senor Don Jose Francisco Vergara Donoso was recognized as the agent and Senor Don Marcial A. Martinez de Ferrari was recognized as the secretary on the part of the Republic of Chile. The Commission being thus organized, examined and disposed of many important claims, but were obliged to leave others undisposed of for the want of time. Under the terms of the convention they were required to examine and decide upon every claim within six months from the day of their first meeting for business. The members of the Commission, its officers and agents, treated me with the greatest courtesy, and I look back to my association with them with great pleasure.

When the Commission finally adjourned, I resumed the practise of my profession in the city of Washington. I realize now that from a pecuniary point of view I made a mistake in entering upon the uncertain sea of politics. Of course, it is the imperative duty of every citizen to take an active interest in the affairs of the Government because it is his government, but my past experience leads me to suggest that it is exceedingly 176 unwise for any young lawyer to become a candidate for political office before he has accumulated a comfortable bank account.

It has been my privilege to know some great lawyers personally, such as Judah P. Benjamin, Charles O'Conner, Allen G. Thurman, Jeremiah S. Black, Conway Robinson, William Green, Edward C. Burks, John Selden and Walter D. Davidge. While Mr. Benjamin was a member of the Confederate States Cabinet I had frequent occasion to call upon him officially. He transacted business with more facility than any public officer I have ever known. He would frequently anticipate you and write the order you wished before you had completed the statement of your case. Upon the subject of fees, he had a rule that was entirely unique. On one occasion he told me that when he practised law in New Orleans, and a man employed him in a law suit, he charged him a "retainer," and if he came about

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the office much he charged him a “reminder,” and after he had done some work in the case he charged him a “refresher,” and when it was all over he charged him a “finisher.”

I have been a member of the bar more than half a century, and during that time have been engaged in many important trials, both civil and criminal, but particularly the latter. Soon after my admission I was engaged at Bedford Court House in the trial of a young law student of the Lexington Law School charged with the murder of a young cadet belonging to the Virginia Military Institute. He was indicted and tried in the Circuit Court of Rockbridge County and Thomas J. Michie of Staunton assisted the prosecution. He was found guilty and the jury fixed his term of imprisonment at eighteen years in the penitentiary. A new trial was obtained, and upon a change of venue the case was removed to the Circuit Court of Bedford County. In the second trial I was associated in the defense with Charles L. Mosby, A. H. H. Stuart,—Doyle, James B. Dorman, E. C. Burks, and James F. Johnson. The trial was a very exciting one, and when the jury returned a verdict of not guilty, the people in the crowded court-room raised a great shout, rushed upon the prisoner, took him in their arms, carried him 177 across the street and deposited him in the lap of his mother, who was sitting in her room at the hotel waiting for the verdict, with an anxious solicitude which none but a mother could feel. Who can tell the height or depth of a mother's love for her boy?

After the war I was engaged with George Blow and Charles S. Stringfellow to defend at Isle-of-Wight Court House a bright young lawyer who had been indicted for the murder on the court green of another young man very much beloved by all who knew him. The prosecution was conducted by Charles B. Hayden, the Commonwealth's Attorney, assisted by Henry A. Wise. It having come to the knowledge of the counsel for the defense that by an arrangement entered into between the opposing counsel, Mr. Wise was to make the closing speech for the Commonwealth, we protested most vigorously upon the ground that it was the duty of the regular Commonwealth's Attorney to stand indifferent between the Commonwealth and the accused, to retain control of the case until it was finally submitted to the jury, and that he had no right to make his speech and then abandon

the case to the management and control of the special prosecutor. When Mr. Hayden ascertained that we intended to raise the point before the court, he consulted privately the venerable Judge Baker presiding at the trial as to his duty in the premises. Judge Baker told him that, without intimating how he would rule upon the point, if raised, his opinion was that Mr. Hayden should make the closing argument. With this understanding, Mr. Wise opened for the Commonwealth in a characteristic address to the jury which occupied two entire days from 10 a. m. to 6 p. m. in its delivery. The result of the trial was a verdict of acquittal. I am under the impression that the Supreme Court of Appeals in Virginia has since decided the point referred to against our contention. In other words, they have held, as I understand, that when a private prosecutor is employed it is competent for the regular Commonwealth's Attorney, in the exercise of his discretion, to permit him to make the closing argument.

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After my removal to the city of Norfolk, I appeared at Princess Anne Court House with Judge Whitehurst and Judge Keeling in the defense of three brothers charged with the murder of their father. The prosecution was conducted by Walter Coke, the Commonwealth's Attorney for that county. The trial was a most exciting one, and we succeeded in saving the necks of our clients; but after the verdict was rendered, under which they were sentenced to the penitentiary for eighteen years, they voluntarily made a full confession, from which it appeared that they had deliberately murdered their father while asleep and that the murder was most cruel and diabolical. The good people of the county believed that they had confessed their guilt to their counsel before the trial, and they criticized us severely for undertaking the defense under such circumstances; but in this they were mistaken. The prisoners persisted in asserting their innocence most positively until they had been condemned and sentenced.

And here I may be permitted to remark that in the whole course of my experience in criminal trials, no accused person has ever confessed his guilt to me before the trial. Of course, I have had my suspicions, but they did not deter me from undertaking the defense.

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Every person accused of crime is, under our system, entitled to the benefit of counsel, and the law presumes him to be innocent until the contrary is made to appear beyond a reasonable doubt. It is the duty of the attorney to see that no illegal testimony is admitted against his client and that the law is correctly expounded by the court.

One of the most important and exciting criminal trials in which I have appeared was that of a young man indicted in the Circuit Court of Elizabeth City County, Virginia, for the murder of another young man under very peculiar circumstances. The prosecution was conducted by E. E. Montague, the regular Commonwealth's Attorney for that county, assisted by A. J. Lipscomb and Senator Daniel W. Voorhees. Joseph Shillington and John S. Wise appeared with me for the defense and the result was a verdict of not guilty. Our plea was that of self-defense. Senator Voorhees closed the argument for the prosecution, and knowing his great power before a jury I sought to break the force of it by reading the following extract from his speech in defense of Crawford Black in the State of Maryland: "Gentlemen, I need not read from the books to inform you what the prisoner's rights were when he saw his mortal foe approach him with hasty strides to become his instant executioner. The law of self-defense is written in the heart of man more plainly and powerfully than in the pages of libraries. We here place our feet on its solid and eternal foundation. We build upon it a house of refuge for the prisoner which will withstand the fury of the storm and the malice of his enemies. He was not called upon to retreat. I spurn the doctrine of being driven to the wall or the ditch, that odious doctrine of degradation, danger and death to the assaulted party. Every inch of ground on which he stood was his own; who had the right to command him to yield it? The free air around him was his wall and he who sought to drive him farther, embraced the peril of his own lawlessness."

Mr. Wise did not come into the case until the trial had been in progress for two days. The first thing he did was to read carefully the typewritten testimony which had been taken before his appearance, and then he soon put in his oar. In the cross-examination of a colored witness he soon had the court-room in a roar of laughter by his sallies of wit and humor. While the members of the jury and the spectators were all convulsed, Senator

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Voorhees arose, and in the most solemn and impressive tones said: "If your honor please, I fail to perceive any occasion for merriment here. This looks to me more like a tragedy than a comedy. One soul has been hurried into eternity before its time and the court and jury are now deliberating as to the fate of another." After a few other weighty and solemn sentences in the same strain, he resumed his seat; and while death-like silence prevailed in the court-room, Mr. Wise sprang to his feet and exclaimed, "If your honor please, I thank God that I have a nature that can rebound from sorrow. The mocking-bird, though it sings, is none the less sorrowful than the wise-looking old owl"; and proceeded to put on an affidavit 180 face very much like that of the Senator. By this clever retort, he turned the tide that was strongly setting against us and relieved my apprehensions of disaster.

While upon the subject of the law and lawyers, I take the liberty of inserting here a copy of my address as president of the Virginia State Bar Association, delivered in August, 1899:

"Gentlemen of the Virginia State Bar Association:

"Before proceeding to the discussion of my subject, I desire to avail myself of this the first opportunity I have had to tender to you the expression of my sincere and heartfelt thanks for the great honor so unexpectedly conferred upon me at your last annual meeting. It is indeed a high distinction to be chosen as the president of an association like this, representing as it does, so much of the character, worth and intelligence of the Commonwealth.

"In obedience to the eleventh article of our constitution, it becomes my duty to deliver an address upon some subject to be selected by myself. The performance of this duty is attended with no little embarrassment. The entire field of jurisprudence has been so thoroughly explored by my distinguished predecessors in their able and learned addresses, delivered before you from year to year, and by the annual orators who have instructed and entertained you with their scholarly and brilliant orations, that in the performance of the task assigned to me I find only a sheaf here and there to be gleaned.

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“Believing that a frequent recurrence to fundamental principles is essential, I have thought that it might not be inappropriate to occupy the time allotted to me in an attempt to recall to your recollection the aims and objects for the promotion of which this Association has been organized. The second article of our constitution declares that ‘this Association is formed to cultivate and advance the science of jurisprudence; to promote reform in the law and in judicial procedure; to facilitate the administration of justice in this State, and to uphold and elevate the standard of honor, integrity, and courtesy in the legal profession.’ What is the 181 science of jurisprudence? Sir William Blackstone, the greatest of English law writers, has said that ‘the law is a science which distinguishes the criterions of right and wrong; which teaches to establish the one and prevent, punish, or redress the other; which employs in its theory the noblest faculties of the soul and exerts in its practise the cardinal virtues of the heart; a science which is universal in its use and extent, accommodated to each individual, yet comprehending the whole community.’ Edmund Burke, the greatest perhaps of English statesmen, has said that ‘the law is a science which is the pride of the human intellect; a science which with all its defects, redundancies and errors is the collected reason of ages, combining the principles of eternal justice with the infinite variety of human concerns.’ It would be impossible to overestimate the value and importance of this science. What other science has more intrinsic dignity? What other science involves more momentous issues? It has to deal with all the intricate affairs and complex machinery of human society. It is intimately connected with the moral and material interests of every individual citizen. How important then it is that every citizen should possess some knowledge of the law. It is not only a proper accomplishment of every gentleman and scholar, it is not only an essential part of a liberal and polite education, but in a country like ours and under institutions such as we enjoy, it is eminently useful in the practical affairs of life. One of the constitutions of King Alfred expressly required that his nobility should be instructed in the laws, and we are told by Cicero that in the days of Ancient Rome the boys were obliged to learn the twelve tables by heart as a ‘*Carmen necessarium*’ or indispensable lesson to imprint upon their tender minds an early knowledge of the Constitution and the laws. But when we remember that in our country every citizen is liable

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to be called upon to take counsel with his countrymen in affairs of government, to assist in the maintenance of good order in the community where he lives, to serve upon grand and petit juries, to advise his neighbors in matters of contract and upon questions affecting their rights of person, liberty and property, to attend at the bedside of a dying friend and assist in the preparation of his last will and testament, and above all, to represent his countrymen in the halls of legislation where the laws are enacted, amended or repealed, it must be conceded that entire ignorance of the law would be lamentable indeed.

“It is not my purpose, however, at this time to recount the many benefits and advantages to be derived by our people generally from the study and knowledge of the law, but to remind you of the special obligation resting upon those who have adopted it as a profession and have dedicated to it their talents and their lives. How is the science of jurisprudence to be cultivated and advanced? I venture to suggest that method should be combined with industry in the study of the most learned authors who have explored the vast and almost illimitable field, a field that embraces among other subdivisions, the Roman or Civil Law, the Unwritten or Common Law, the Written or Statute Law, Equity Law, the Law Merchant, the Law of Crimes and Punishments, the Law of Nations, the Maritime and Admiralty Law, the Law of Corporations, Medical Jurisprudence, Military and Naval Law, Legal Biography and Bibliography, the Constitution and Laws of the United States, and particularly the Constitution and Laws of our own State.

“It is our privilege to live in an extraordinary period of the world's history. Nations are contending with nations in exploring the fields and adding new discoveries in the realms of science. Laws of Nature which have been hidden mysteries since the morning of Creation have been made the daily servants of man. Steam and electricity have broken down the ancient barriers. Time and space have been annihilated, and intelligence is now communicated with a rapidity unsurpassed by the speed of winds or the flight of birds. As the result of the wonderful improvement that has been made in the means of communication, we can no longer live within ourselves. Our business relations have become coextensive with the world. Under these circumstances it becomes indispensable

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to devote more attention than ever before to the study of comparative jurisprudence and international law. We must study historically and comparatively the governmental 183 systems of other countries, and our own constitutional system. We must study the laws of the different nations with which we carry on trade and commerce. We must study the principles of international law which regulate and control our relations with other nations. The acquisition of distant territory in another hemisphere, as the result of our recent war with Spain, must not only be accepted as a new departure from our traditional policy, but as bringing with it increased responsibilities, of a grave and delicate character.

“In order to meet those responsibilities and discharge them properly so as to avoid troublesome complications, a thorough knowledge of all the intricacies of international law is absolutely essential.

“In cultivating the science of jurisprudence, it would be unpardonable to neglect the study of the Bible. If we desire to find a form of government devised and enjoined by the Creator himself—if we desire to find an authentic history of the origin of mankind, the formation of society and the creation of the social compact, it is only necessary to have recourse to the Old Testament. If we desire to find a code of morals unexampled in purity and sublimity, it may be found in the New Testament. Mr. Locke has said that in morality there have been books enough written both by ancient and modern philosophers, but the morality of the Gospel so exceeds them all, that to give a man a complete knowledge of genuine morals he would send him no other book but the New Testament. Sir William Jones has expressed himself thus: ‘I have carefully and regularly perused the Holy Scriptures, and am of opinion that the volume, independently of its Divine origin, contains more sublimity, purer morality, more important history, and finer strains of eloquence than can be collected from any other book in whatever language it may have been written.’ The foremost statesman of this age, Gladstone of England, the ‘Old Man Eloquent’ who so often electrified the House of Commons, is reported to have borne his testimony as follows: ‘Talking about questions of the day, there is but one question and that is the Gospel. It can and will correct everything 184 that needs correction. My only hope for

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the world is in bringing the human mind into contact with Divine revelation.' This is the testimony of a man who was permitted to pass far beyond the limit of human life allotted by the Psalmist, who throughout his eventful career was a most profound student of men and of books, who so often in moments of public difficulty and peril exhibited the highest talent for leadership, who successfully scaled all the heights of human ambition and sounded all the depths and shoals of honor, and whose history for nearly half a century was the history of the English Government.

"Another object for which this Association has been formed is the promotion of reform in the law and in judicial procedure. Mankind in all ages of the world has been moved by an irrepressible desire for change. This distinguishing characteristic of human nature is strikingly illustrated by the famous Satire of Horace addressed to Macoenas, and by a beautiful allegory published many years ago in the *Spectator*. But while the members of the legal profession are not altogether exempt from this common infirmity, it is nevertheless true that, as a class, they are eminently conservative and not inclined to favor a change of well-tried institutions and long-established systems for the mere sake of change. Since the organization of this Association, in July, 1888, perhaps no other subject has been so ably and earnestly discussed at your annual meetings as the subject of reform in the law and in judicial procedure. As the result of your deliberations many valuable reforms have been recommended, some of which have been adopted by the General Assembly, while others have failed to receive favorable consideration.

"Without transcending the just limits of a paper like this, I could not undertake to discuss all the reforms which have been heretofore suggested by your able committees, but I beg leave to recommend that you should by correspondence with similar associations in other States, and by co-operation with the Commissioners appointed under a recent act of the legislature, exert your acknowledged influence in securing greater uniformity of legislation upon certain subjects which deeply affect the welfare and happiness of our people. 185 There is no good reason why there should not be uniformity of legislation in the different States upon marriage and divorce, the protection of the people against trusts,

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insolvency, the descent and distribution of property, the execution and acknowledgment of deeds, the execution and proof of wills, the form of notarial certificates and other important subjects. Ever since the adoption of the Federal Constitution, Virginians have zealously guarded and defended home rule and local self-government as the sheet anchor of their safety, but I submit that they may voluntarily adopt uniform legislation with that of other States upon the vital question of marriage and divorce and other domestic questions, without infringement of State autonomy and without any sacrifice of dignity and power as a sovereign, coequal State of the Union.

“While upon the subject of law reform, I submit that there is urgent need of reform in the organic law of the State. The Constitution under which we now live, commonly known as the “Underwood Constitution,” was framed under the Reconstruction Acts of Congress by aliens and newly emancipated slaves. It was adopted by the people of Virginia under duress as a condition precedent to the readmission of the State into the Union, and its representation in Congress. It is not only obnoxious on account of the circumstances attending its formation and adoption, but the government established by it is unnecessarily expensive and in many respects wholly unsuited to existing conditions. How can it be amended? In the spring of 1897 the people rejected at the polls the proposition submitted to them to call a Constitutional Convention. This action was taken not because they were satisfied with the existing Constitution, but because they considered the time inopportune for the assembling of a State Convention and because they did not deem it wise to incur the additional expense in view of the financial condition of the State. Under these circumstances, I recommend that this body shall memorialize the General Assembly to provide by law for the creation of a Constitutional Commission to consist of twenty-one members, two from each Congressional district and one from the State at large, who shall be charged with the duty of recommending such changes in the existing Constitution as in their wisdom they may deem expedient. I submit that this plan would be not only expeditious, but inexpensive, and would be attended with the best results. The Code of 1887, the product of three well-trained legal minds, furnishes evidence that the

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work of amending our organic law would be well done by a Commission of twenty-one able, learned, upright men to be elected by the General Assembly or appointed by the Governor.

“The time has been when Virginians were recognized as master builders so far as the work of building constitutions was concerned. They promulgated the first written constitution for a free and independent Commonwealth ever known to mankind. The convention that framed that Constitution met at Williamsburg on the 6th of May, 1776, and was composed of such men as Edmund Pendleton, Richard Bland, Robert Carter Nicholas, John Blair, Edmund Randolph, Henry Tazewell, James Madison, Archibald Cary, Benjamin Harrison, Paul Carrington, Thomas Read, Thomas Lewis, William Cabell, George Wythe, Richard Henry Lee, Patrick Henry, Thomas Nelson, Thomas Jefferson, and George Mason. It is no exaggeration to say that the Virginia Bill of Rights drawn by George Mason in 1776 is the most complete summary of the rights of man and the principles of free government that has ever been given to mankind. One of its articles declares that ‘No man or set of men is entitled to exclusive or separate emoluments or privileges from the Commonwealth, but in consideration of public services, which not being descendible, neither ought the offices of Magistrate, Legislator or Judge to be hereditary.’ As has been well said, ‘Here is a volume of wit and wisdom for the study of the nations embodied in a single sentence and expressed in the plainest language. If a deluge of despotism should sweep over the world and destroy those institutions under which freedom is yet protected, sinking into oblivion every vestige of their existence among men, could this single sentence of George Mason be preserved, it would be sufficient to rekindle the flame of liberty, and revive the race of freemen.’ The Constitution of Virginia 187 adopted on the 29th of June, 1776, continued in operation more than half a century. In January, 1830, the amended Constitution was adopted by a convention that has never been surpassed in learning, ability, and patriotism.

“The fundamental principles of government as involved in the proper basis of representation and the just distribution of its powers among the three co-ordinate

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departments, were exhaustively discussed. The debates attracted the attention not only of Virginia, but of the entire country. Nor is this to be wondered at when it is remembered that the participants were such men as John Marshall, James Madison, James Monroe, John Randolph, Abel P. Upshur, Benjamin Watkins Leigh, John Tyler, William B. Giles, Chapman Johnson, John Y. Mason, Philip Barbour, Richard Morris, Philip Doddridge, Alexander Campbell, Littleton Waller Tazewell, Robert B. Taylor, Hugh Blair Grigsby, and others scarcely less distinguished.

“While advocating such reforms of the law as experience shall demonstrate to be necessary in order to attain a higher degree of perfection, it is the part of wisdom to exercise caution and circumspection. Lord Bacon uttered words of truth and of soberness when he said, ‘It were good therefore that men in their innovations would follow the example of time itself which innovateth greatly, but quietly and by degrees scarce to be perceived.’ In my judgment, all novelty is not improvement, and all change is not reform. Suppose, for example, we should adopt the recommendation of certain modern reformers and abolish altogether the system of trial by jury—would such an innovation be a wise and salutary reform? Perhaps the most sacred and inestimable of all the rights secured to the citizen under our beneficent system of government is the right to be tried by an impartial jury of his countrymen. For ages this right has been the inheritance of our race. Our forefathers with arms in their hands wrung it from their reluctant rulers in the Old World, and their descendants here have zealously guarded and maintained it as the most precious bulwark of life and liberty. It is true that under the system of trial by jury there is sometimes a miscarriage of public justice on account of the ignorance or corruption or intimidation of the jurors. It is true that under such exasperating conditions the whole system is sometimes denounced by good men as a complete failure. But what other system can be safely substituted for it? If jurors are sometimes fallible or corrupt or cowardly, to what other tribunal shall we appeal? Shall we unite the offices of judge and jury so wisely separated by our system? The judges are usually able, learned, and honest men, but they are men and are not infallible. They may expound the law as clearly as a

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problem is demonstrated in Euclid, but something more is required to secure the ends of complete justice. The law in its beneficence does not permit any citizen to be molested in the enjoyment of life or liberty until the popular sanction has been given to his sentence, and his cause has been passed upon by a jury of his peers. Let us not in a moment of discontent seek to abolish a system so highly cherished by all English speaking people, and so generally approved by the wisdom of ages.

“Another object of our Association as declared in its constitution is ‘to facilitate the administration of justice in this State.’ The State has a claim upon all her citizens, but especially upon those who have adopted the law as their profession and have made a knowledge of the law the study of their lives. To what other class of citizens can the State look so confidently for support in the administration of justice? The lawyers are ministers of justice and have been especially set apart to officiate as priests at her altars. It is their duty to assist the court conscientiously in the delicate and difficult task of administering justice, and especially to do nothing and to say nothing against truth. While it is their province to do all for a client that he could justly and honestly do for himself, they have no right to gain the victory for him by knowingly perverting the law or wilfully misrepresenting the testimony. In addressing the court they have no right to maintain any proposition of law that they do not believe to be correct; and in addressing the jury they have no right to misstate the testimony. The honest, conscientious lawyer will not only be moved by an honorable instinct to speak the truth as he understands it, but he will learn from experience that in no other way can he acquire the respect and confidence of court and jury, and thereby achieve permanent success in his profession.

“Chief Justice Marshall said on a memorable occasion that ours is emphatically a government of law, and Mr. Justice Miller in the celebrated case of the United States v. Lee, commonly known as the Arlington case, uttered words which deserve to live forever when he said, ‘No man in this country is so high that he is above the law. No officer of the law may set that law at defiance, with impunity. All the officers of the Government from the highest to the lowest are but creatures of the law and are bound to obey it. It is the only

supreme power in our system of government.' As such supreme power it is entitled to the highest energies of our natures and the best affections of our hearts. If therefore the time shall ever come when it is threatened with overthrow, when the spirit of lawlessness shall stalk abroad in the land, when the roar of the multitude shall be heard above the voice of reason, and when a passionate and unbridled majority shall undertake to break down the safeguards of society and the bulwarks of liberty, it will be our imperative duty to step forth as the champions of the right, to defend the cause of the weak against the strong, to uphold the majesty of the law and to protect it as resolutely as the storm-vexed mariner would protect the compass by which he hopes to steer to a haven of security. The public safety consists in holding the Ship of State fast to the anchorage of the law—when the law ends, not only tyranny but chaos and anarchy begin. There is no safety for life, liberty, or property when the scales of justice are held by an infuriated and irresponsible mob. There is no room for mobocracy in this land of liberty regulated by law. The courts are open for the enforcement of every right and the redress of every wrong. If there be any exception it must be founded upon human impulses which government is incompetent to control. Twice did Roman liberty rise upon the ruins of tyranny trampled in the dust by reason of outrages against womanhood. And the eloquent, indignant burst of Icilius has never been measured in the cold scale of legal formula—

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“*Saevite in tergum et in cervices nostras Pudicitia, saltem, in tuto sit.*”

“We all agree that the fiend in human shape who makes a brutal assault upon a helpless female should be summarily put to death, but fortunately in Virginia there is now apparently no necessity to invoke the application of lynch law. Section 4016 of the Code as amended by the Act of the General Assembly approved February 12, 1894, provides that when an indictment is found against a person for felony in a court wherein he may be tried, the accused if in custody or if he appear according to his recognizance, shall, unless good cause be shown for a continuance, be arraigned and tried at the same term.

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“The strong obligation to stand by the law, whatever may be the temptation to disregard it, has been beautifully illustrated by that great master of the human heart in the celebrated trial recorded in the Merchant of Venice. Bassanio, pleading earnestly and pathetically for the life of his friend, exclaims— ‘I beseech you wrest once the law to your authority— To do a great right, do a little wrong And curb this cruel devil of his will.’ To which Portia, the fair young judge and expounder of the law, replies:

“‘It must not be— There is no power in Venice can Alter a decree established— ‘Twill be recorded for a precedent And many an error by the same example Will rush into the State.’

“Another object of this Association, as declared in its constitution, is ‘to uphold and elevate the standard of honor, integrity, and courtesy in the legal profession.’ When we were admitted to the bar, and enrolled as practising attorneys, we took an oath to support the Constitution, and to demean ourselves properly in the office of attorney. What is the meaning of this obligation? It means that we will conduct ourselves with scrupulous fidelity and honor. It means that 191 we will observe all the well-established ethics of the profession. We not only owe a duty to the State and to the courts before which we are called to practise, but we are placed under special obligations to our clients. It is a great mistake to suppose that a lawyer is bound to accept employment in every cause that is offered to him. He is the keeper of his own professional conscience and is no man's man. I am one of those who believe that Dr. Paley uttered a great libel upon the legal profession when he wrote of lawyers that ‘no promise to speak the truth is violated because none is given or understood to be given.’ Nor have I any sympathy with the sentiment expressed by Lord Brougham in his defense of Queen Caroline, that it is the duty of the advocate if need be to involve his country in confusion for his client's protection. But I maintain that the obligations of the attorney to his client are of the most delicate character. He is made the depository of the most important secrets involving life, liberty, property, character, reputation, everything that his client holds most dear upon earth. If he should be willing to divulge those secrets, he would not only lose caste as a man, but he would be disbarred

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as unworthy of association with honest and honorable men. The law itself recognizes and enforces this confidential relation between attorney and client, and will not permit it to be invaded or violated under any circumstances whatever. The sanction of the law is thus superadded to the sacred tie of honor in order that the attorney may be irrevocably bound to fidelity. Having accepted a retainer from our client and thus become identified with him, we are bound by every consideration of duty and of honor to protect and defend his interests by all legitimate methods. It may be that in doing so we will sometimes incur the displeasure of the court. It may be that we will sometimes encounter the frowns of the multitude, but nevertheless we must assert the dignity, independence and integrity of the bar, without which impartial justice can have no existence whatever. Unawed by power, unintimidated by threats and unseduced by blandishments, we must remember that our client's cause has been entrusted to our keeping, that he has singled us out from all the world to stand between 192 him and impending danger, and we must be prepared to maintain and defend his cause against all comers and goers, at all hazards and to the last extremity.

“Before dismissing this branch of the subject, permit me to say that it is our sacred and imperative duty never to use, under any circumstances whatever, the money of our clients. It is far better to borrow from any one else than to borrow from our clients, especially when they are not aware of the transaction. We may not intend to do anything wrong. We may honestly intend to account for the money thus appropriated, but some unforeseen emergency may arise that may place it out of our power to do so. Occasionally it has happened that an attorney by yielding to temptation and by appropriating to his own use his client's money has brought reproach upon an honorable profession, and subjected it to unfriendly criticism. Amongst the Romans the relation of patron and client was regarded as so sacred that if either abused it, he became infamous, and might be slain as sacrilegious. And Virgil has assigned to the patron deceiving his client on earth, a seat of punishment in the other world along with the parricide.

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“Having discussed to some extent the aims and objects of this Association, let us consider briefly some of the magnificent rewards that are held out to the faithful votaries of our noble profession. It must be conceded that the number of lawyers in this country who accumulate wealth by the legitimate practise of their profession is not very large. But while lawyers as a class do not amass large fortunes, they realize, as a general rule, a comfortable support from their labors, and are enabled to meet all reasonable demands that are made upon them. To the honor of the profession be it spoken, however, that the upright, conscientious lawyer does not consider that the only purpose of his existence is to ‘put money in his purse.’ I hope it may never be said of the Virginia lawyer that in a sense never contemplated by that author, the language of Blackstone is still true, ‘A fee is the highest and most extensive interest that a man can have in a feud.’ He understands fully that while money is not to be altogether despised, there are some things in life that money cannot buy. He would not exchange the good name which he bears and the esteem of honorable men which he enjoys for all the jewels of Golconda or all the wealth of the Indies. What other class in the community enjoys to a more unlimited extent the confidence of their fellow-men? What other class is more universally trusted, and that too without any security except the traditional honor and good faith of the profession? What other class exerts a more potential influence for good in all the diversified concerns and intricate affairs of human life?

I am sometimes inclined to believe with Lord Erskine that more instructive lessons are taught in courts of justice than even the church is able to inculcate. Morals, said he, come in the cold abstract from pulpits, but men smart under them practically when the lawyers are the preachers. And, again, what position is more enviable and what reputation more desirable than that of the foremost lawyer of his State or circuit? Go into the temple of Justice, and see him officiate there as its minister, and hear him as he expounds the law to the court or pleads the cause of injured innocence or denounces the heartless oppressor, the crafty trickster, the wanton calumniator, or exposes fraud, falsehood and wrong with biting sarcasm and withering invective. As you listen to his luminous argument and stand

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spellbound under the magical influence of his burning eloquence, you feel that 'every god doth seem to set his seal upon him to give the world assurance of a man.' 'May I perish,' says Quintillian, 'if the all powerful Creator of nature and Architect of this world has impressed man with any faculty which so eminently distinguishes him from other animals as the faculty of speech.' When highly cultivated and improved, what a tremendous power it exerts over the destinies of men. The fame of the eloquent advocate pervades the entire community. His power is almost omnipotent. His eloquence at times is more terrible than an army with banners. Again, 'tis musical as bright Apollo's lute strung with his hair.' I repeat, there is no reputation more desirable or more enduring than that of the able, learned, and accomplished lawyer.

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"The names of the great lawyers who have illustrated and adorned the annals of Virginia will live and shine as bright as the eternal stars long after the evanescent fame of the mere political orator has passed away and been forgotten forever. There can be no better preparation for a useful and distinguished career in life than the study and practise of the law. More than one-half of our Presidents and a large majority of our legislators have been lawyers, while the members of the judiciary are selected exclusively from that class. No one of the three separate and independent departments of the Government has more delicate and difficult functions to perform than the judiciary. No office under our system is more honorable and responsible than that of judge, and none is held in greater esteem and reverence by the people. As we walk through the grounds of our beautiful Capital City of Washington, we find here and there in every direction statues and monuments erected by a grateful people to perpetuate the memory of distinguished soldiers and civilians who, in their day and generation, have added luster to the American name. But when we turn our faces toward the Capitol, and begin to ascend the steps which lead to its halls, we behold the majestic figure of John Marshall, the illustrious Chief Justice of the United States. There he sits, clothed in the judicial ermine, calm, serene, self-poised. That figure has been placed there by the bar and the Congress of the United States to commemorate

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the virtues of a great and good man, the highest and best model the world has ever known of the able, learned, upright, incorruptible judge. His name will be held in grateful and affectionate remembrance by the American people as long as their Constitution, of which he was the great expounder, shall endure.

“In this connection, I beg leave to recommend to your favorable consideration the proposition unanimously adopted by the Illinois State Bar Association, that the legal profession of the United States shall celebrate Monday, February 4, 1901, as ‘John Marshall Day.’ That will be the centennial anniversary of the commencement of his great career as Chief Justice. As Virginia lawyers, we cannot afford to be indifferent to a movement inaugurated by others for the 195 purpose of honoring the memory of the illustrious Virginian who presided over the Supreme Court from 1801 to 1835, blazing the way for his successors in the interpretation of the Constitution, and adorning the exalted station by his splendid genius, his profound learning, and his manly virtues.

“Under our system, it is the patriotic duty of every citizen to take an interest in the affairs of the Government because it is his government.

“It is no disparagement of others to say that the lawyers as a class have ever been found to respond with alacrity to the call of their country, and have ever been in the forefront of the champions of civil and constitutional liberty. It would be impossible to call the roll of all the great lawyers who have thus linked their names with immortality forever, but with your permission I will mention the names of two, one of them the greatest forensic orator in England, the other the greatest forensic orator in America. I refer to Thomas Erskine and Patrick Henry. Perhaps no greater service has ever been rendered to mankind than that performed by Erskine in his vindication of the right to print the truth with good motives and for justifiable ends. With the introduction of the art of printing, the press in England was subjected to the most rigorous censorship. No writings were permitted to be published without the imprimatur of the licensor, and the printing of unlicensed works was visited with the severest punishment. This censorship was exercised by the church until the

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time of the reformation, when it passed to the Crown as a part of the royal prerogative. During the reign of Elizabeth, the general regulation of the right of printing was actively assumed by the Star Chamber. Upon the fall of the Star Chamber in 1641, the censorship of the press passed from the Crown to Parliament. It was an order of the Long Parliament in 1643 that called forth Milton's great plea for the liberty of unlicensed printing, that noble performance in which he exclaimed, 'Give me to know, to utter, and to argue freely according to conscience above all liberties.'

"After the Restoration the entire control of printing and publishing was resumed by the Crown, and placed in the hands of its agents under the Licensing Act of 1662. This 196 act, limited to two years, was renewed until 1679. Upon the accession of James II, in 1685, it was revived for seven years and was again renewed for one year in 1692. In 1695 the House of Commons resolutely refused to renew the Licensing Act—thus emancipating English literature from the control of the Government. After the refusal of the English Parliament in 1695 to renew the Licensing Act, the only restraint which remained upon the right of free discussion was the judicial restraint imposed by the law of libel and enforced by the judgments of the courts. During the reign of William III and Queen Anne, the law of libel was so vigorously enforced by the courts that the press, though theoretically free, was practically subjected to the most oppressive tyranny. To assail the dominant party or to censure the ministers was considered a personal reflection upon the King, and was construed to be libelous.

"The battle for the freedom of the press which had been so successfully fought in the English Parliament seemed now about to be lost by the arbitrary and startling ruling of the English courts. This doctrine was boldly announced from the bench, that in a prosecution for libel the jury had nothing to determine but the fact of writing and publishing, and that they could not decide whether the publication was libelous or not. The doctrine was laid down by Lord Mansfield in the trial of the printers of the 'North Britton' that it was the province of the courts alone to judge of the criminality of a libel. Five years later the same doctrine was announced by the same judge in two memorable cases which grew out of the

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publication in the 'Morning Advertiser' on the 19th of December, 1769, of the celebrated letters of Junius addressed to the King. Again, on the trial of Woodfall in June, 1770, the same judge told the jury that 'as for the intention, the malice, the sedition or any other harder words which might be given in Informations for Libel, public or private, they were mere formal words, mere words of course, mere inferences of law with which the jury were not to concern themselves.' These doctrines announced by Lord Mansfield, so utterly subversive of the immemorial right of trial by jury, created a profound impression throughout England. They were severely criticized and denounced in the letters of Junius and in Parliament by Lord Chatham, Edmund Burke, and others. When the Dean of St. Asaph was tried and convicted of a libel for recommending a harmless little tract entitled a 'Dialogue between a farmer and a gentleman,' written for the promotion of Parliamentary reform, he was represented by Erskine. In arguing for a new trial in that case in 1784, Erskine delivered before the judges, with Lord Mansfield at their head, an argument pronounced by Fox to be the finest in the English language. He declared that the defendant 'had had in fact no trial, having been found guilty without any investigation of his guilt and without any power left to the jury to take cognizance of his innocence.' His profound and luminous argument made no impression upon the judges to whom it was addressed, but it stirred the hearts of the English people to their inmost depths. The result was the enactment by Parliament of the Statute 32, George III, known as the Fox Libel Act, which expressly provided that in all criminal prosecutions for libel, the jury were to decide the question of libel or no libel. Ever since the passage of that act the English press has been free, and the first amendment of the Federal Constitution, adopted not long after the events in England to which I have adverted, provides that Congress shall make no law 'abridging the freedom of speech or of the press.'

"As Thomas Erskine was foremost in the defense of English liberty, so Patrick Henry, a Virginia lawyer, took the lead in resisting the exercise of arbitrary power by the Mother Country. His Heaven-born eloquence fired the hearts of the people and incited them to revolution by the proclamation of the eternal truth that 'resistance to tyrants is obedience to

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God.' On the 29th of May, 1765, in the House of Burgesses, he offered those memorable resolutions which claimed for the General Assembly the exclusive power to lay taxes and imposts upon the inhabitants of the colony, and denounced the Stamp Act, which had just been passed by Parliament, as illegal, unconstitutional, unjust and having a manifest tendency to destroy British as well as American liberty. He represented Virginia in the Continental Congress 198 gress of 1774, to which he was sent as a delegate with Peyton Randolph, Richard Henry Lee, Richard Bland, Benjamin Harrison, Edmund Pendleton, and George Washington. In May, 1775, at the head of volunteers from Hanover and other counties, he marched against Governor Dunmore and compelled him to pay for the gunpowder he had taken from the magazine at Williamsburg. On the 29th of June, 1776, he was elected the first Governor of Virginia under her first Constitution.

Although Mr. Henry was the idol of the people and could have been easily elected at any time to any office in their gift, he was in no sense an office-seeker. This is abundantly shown by the fact that he declined the office of United States Senator to which he was elected in 1794. He declined the office of Governor of Virginia to which he was elected in 1796. He declined the office of Secretary of State, and also that of Chief Justice of the Supreme Court of the United States, tendered to him by President Washington; and he declined the office of Minister to France, tendered to him by President Adams. But notwithstanding his love of retirement and his aversion to office, he felt constrained by a sense of public duty to appear in the great convention of intellectual giants that assembled at Richmond on the 2d of June, 1788, to consider the question of the ratification or rejection of the Federal Constitution adopted at Philadelphia. Like the great political prophet he was, he foresaw and foretold the lurking dangers in that instrument which threatened the liberties of individual citizens and the rights of Sovereign States. Before the ratification of the Constitution by Virginia he advocated and, by the weight of his personal character and the power of his matchless eloquence, he secured the promise of several amendments, the wisdom of which has been fully vindicated by subsequent events in the history of the country. In March, 1779, Mr. Henry made his last appearance before the

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public at Charlotte Court House in a celebrated debate with that brilliant and eccentric genius, John Randolph of Roanoke. It is sufficient to say of his speech on that occasion that it was worthy of his great renown as an orator. His countrymen as they listened spellbound and entranced beheld with wonder and admiration the setting in all its glory of that sun that had blazed upon them in meridian splendor. A writer in describing the scene, exclaims, 'Happy people of Charlotte! It was your lot to behold the bright golden sunset of the great luminary whose meridian power melted away the chains of British despotism, and withered up the cankered heart of disaffected Toryism. Then turning with tearful eyes from the last rays of the sinking orb to hail dawning on the same horizon another sun just springing as it were from the night of chaos, mounting majestically into his destined sphere and driving chaos and darkness before his youthful beams.'

"Mr. Jefferson considered Patrick Henry the greatest orator that ever lived. Mr. Mason said he was the most powerful speaker he had heard; while Mr. Randolph pronounced him the greatest of orators and declared that he was Shakespeare and Garrick combined. What was the secret of that bewitching power? He was emphatically a child of Nature. He was passionately fond of hunting and fishing. He loved to roam through the fields and forests of his native county of Hanover, and study Nature in all her virgin purity and stately splendor. 'When in a lofty and deeply shaded grove,' writes Seneca in one of his epistles, 'filled with venerable trees whose interlacing boughs shut out the face of Heaven, the grandeur of the wood, the silence of the place, the shade so dense and uniform, infuse into the breast the notion of a divinity.' Amid such environments Mr. Henry studied the open volume of Nature, and thereby expanded his faculties and nourished his genius. The power of his eloquence was due not only to his ardent love of nature, but to those strong emotions and delicate sensibilities without which no man can be an orator. To these were added, a majestic presence and those indispensable accompaniments of manner, voice, intonation, attitude, pause and gesture. He suited the action to the word, the word to the action. When he rose to speak his very soul seemed to be in arms, and his whole countenance was aflame, but in the torrent, tempest whirlwind of his passion he acquired and begot a

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temperance 200 that gave it smoothness. A great orator has said, 'When public bodies are to be addressed on momentous occasions, when great interests are at stake and strong passions excited, nothing is valuable in speech farther than it is connected with high intellectual and moral endowments. Clearness, force, and earnestness are the qualities which produce conviction. True eloquence indeed does not consist in speech. It cannot be brought from far. Labor and learning may toil for it, but they will toil in vain. Words and phrases may be marshaled in every way, but they cannot compass it. It must exist in the man, in the subject, and in the occasion. Affected passion, intense expression, the pomp of declaration, all may aspire after, they cannot reach it. It comes, if it come at all, like the outbreking of a fountain from the earth, or the bursting forth of volcanic fires with spontaneous, original, native force. The graces taught in the schools, the costly ornaments and studied contrivances of speech shock and disgust men when their own lives and the fate of their wives, their children and their country hang on the decision of the hour. Then words have lost their power, rhetoric is vain and all elaborate oratory contemptible. Even genius itself then feels rebuked and subdued as in the presence of higher qualities. Then patriotism is eloquent—then self-devotion is eloquent. The clear conception outrunning the deductions of logic, the high purpose, the firm resolve, the dauntless spirit speaking on the tongue, beaming from the eye, informing every feature and urging the whole man onward, right onward to his object. This, this is eloquence, or rather it is something greater and higher than eloquence; it is action, noble, sublime, godlike action.'

"With this definition of true eloquence we can understand how Patrick Henry carried captive the hearts of the people. We can understand that picturesque and soul-stirring scene as depicted by Mr. Wirt at Hanover Court House on the 1st of December, 1763, when the forest-born Demosthenes, at that time unknown to fame, appeared in the trial of the 'Parsons cause.' We can understand how his aged father, who sat upon the bench as one of the magistrates, was so filled with rapture that tears streamed down his cheeks. We 201 can understand how the people stood in death-like silence, their features fixed in amazement and awe, all their senses listening and riveted upon the speaker as if to catch

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the last strain of some heavenly visitant, and how, when the verdict was rendered, they carried him amid acclamations of triumph upon their shoulders out of the court-room and around the court-green. We can understand how the members of the Virginia Convention as they sat listening to his irresistible eloquence, while with 'thoughts that breathed and words that burned' he portrayed the wrongs of the colonies, arose as one man and cried out, 'To arms, to arms!' just as his great prototype-had moved the Athenians to exclaim, 'Let us march against Philip; let us conquer him or die!'

"In conclusion I beg leave to congratulate you that thus far you have faithfully observed the requirements of the 2d Article of your constitution. You have cultivated and advanced the science of jurisprudence, you have promoted reform in the law and in judicial procedure, you have facilitated the administration of justice in this State, and you have upheld the standard of honor, integrity, and courtesy in the legal profession.

"While this Association has reason to be proud of its past achievements, and of the service already rendered to the State, I beg its members to remember that much yet remains to be done. As Napoleon Bonaparte said to his army in Italy, there are other marches to be made, there are other battles to be fought, there are other victories to be won. Let us resolve that we will dedicate ourselves with renewed enthusiasm and with redoubled energy to the service of our beloved Commonwealth. Her future prosperity and glory will depend in no small degree upon the efforts of the State Bar Association. But whatever may be said of her future, we have the proud satisfaction of knowing that her past at least is secure. The unfading civic wreath has by the universal verdict of all mankind been placed upon her venerable brow, and the fame of her great names will endure as long as her beautiful blue mountains shall lift their summits toward the sky, and as long as her magnificent rivers shall roll on to the sea."

Chapter XIII Acquaintance with Ex-Governor James McDowell—Governor Joseph Johnson emphatically a man of the people—Personally acquainted with all

Governors since his day—Incidents of Governor Wise's administration—"Honest John" Letcher—"Extra Billy" Smith—Private John Allen's anecdote.

While attending the law school of Judge Brockenbrough at Lexington, Virginia, I had the pleasure of meeting Ex-Governor James McDowell, who at that time represented his district in the Congress of the United States. He was a courtly, elegant gentleman, and enjoyed the reputation of a scholarly and accomplished orator. It is said that the canvass between himself and Hon. A. H. H. Stuart for a seat in the House of Representatives will long be remembered by those who had the privilege of listening to their chaste and eloquent addresses, and witnessing their high-toned, chivalrous bearing toward each other.

The next Governor of Virginia whom I had the pleasure of knowing personally was Hon. Joseph Johnson, who was elected by the people under the Constitution of 1851, in opposition to Hon. George W. Summers of Kanawha, one of the most powerful and gifted speakers of his day. Governor Johnson was emphatically a man of the people, and was regarded as a tower of strength in the northwestern counties of Virginia, now composing the State of West Virginia. While he was acting as Governor, a mob of infuriated citizens met in the Capitol Square at Richmond, gathered around the Executive Mansion, and heaped opprobrious epithets upon him because, in the exercise of his prerogative as Governor, he had thought proper to pardon a colored man who had been convicted of manslaughter. When the Governor was urged by his friends to order out the public guard and disperse the rioters, he peremptorily declined, and exhibited extraordinary patience and self-control under the most exasperating circumstances.

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I have personally known all the Governors of Virginia from that day to the present: Wise, Letcher, Smith, Walker, Kemper, Holladay, Cameron, Lee, McKinney, O'Ferrall, Tyler, Montague, and Swanson. The office is one of great dignity and honor. Any citizen of the State might be pardoned for indulging an honorable ambition to fill the place once dignified

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and adorned by Patrick Henry, Thomas Jefferson, Thomas Nelson, and a long line of illustrious worthies who by their genius, talent, and virtues have illustrated and adorned the annals of their State.

During the administration of Governor Wise, John Brown, fired by the zeal of a fanatic, came into the State to incite servile insurrection, destroy the homes of our people, and murder their helpless women and children. The excitement that prevailed throughout all our borders was intense. The citizen soldiery sprang to arms and everywhere the busy note of preparation for the impending conflict was heard. This was, in reality, the beginning of the war between the States—the greatest civil war ever known in the history of mankind, in which millions of lives were sacrificed and billions of treasure expended.

John Letcher was elected Governor in 1859. He had served for several terms in the House of Representatives with great distinction. He was called “Honest John,” and was universally recognized during his term of service as the “Watch-dog of the Treasury.” He had been conspicuous for his opposition to secession and his ardent devotion to the Constitutional Union of 1789, but when President Lincoln issued his famous proclamation calling for 75,000 troops to coerce the seceding States of the South, he promptly espoused the cause of Southern independence and devoted all his energies to the defense of his State and people. As war Governor of Virginia, in the most critical period of her history, he exhibited qualities of the highest order and made a name of which his family and friends may be justly proud.

Governor Letcher was succeeded by William Smith, affectionately called “Extra Billy” by his admiring countrymen. He was a noble old Roman who served his State most acceptably 204 in peace and in war, and made his impress upon the times in which he lived as patriot, statesman, and soldier. He represented his district for several terms in the House of Representatives, and was twice elected as Governor of the State. He was a born leader of men and was irresistible as a popular orator. When our sectional trouble finally culminated in war, he promptly tendered his sword to his country, and although not favored

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with any military training, he attained high rank as a commander and was complimented by General Beauregard in his official report of the first battle of Manassas for his cool, cheerful courage. In the purer and better days of our fathers, it was not customary for the candidates for Governor to make a domiciliary canvass and go about the State advertising their own merits and proclaiming their own superior qualifications and fitness for the high office. The people met together in public assemblies and called upon the man of their choice to serve them. In other words, the office sought the man and not the man the office. *Tempora mutantur et nos mutamur cure illis.*

In this connection I am reminded of an anecdote told by private John Allen of Mississippi, as follows: A fine old gentleman in Tupelo was in the habit of sitting on the goods boxes in the street, chewing tobacco and talking politics. His hobby was that the office should seek the man and not the man the office. He waxed eloquent in the discussion of his chosen theme. Finally, he determined to become a candidate himself and went out upon an electioneering tour. When his friends twitted him about his change of front, he replied, "Oh, yes, the office should seek the man, but the man should be around so that the office may find him." In these latter days, the candidates "are around" and clamoring in season and out of season for the "sweet voices of the people."

Chapter XIV The Virginia Constitutional Convention of 1901–2—The vote for and against it—I am elected a delegate from Bedford County—Organization—Elected president of the convention—Speeches nominating me to the office—My reply—Memorial exercises in honor of the lamented President McKinley—Installation of State officers in hall of convention—The great work accomplished by the convention and high character of debate—Personnel of committees—Summary of benefits of new constitution—The city of Richmond.

On March 5th, 1900, the General Assembly of Virginia passed an act entitled "An Act to provide for submitting to the qualified voters of the State the question of calling a Constitutional Convention to be held for the purpose of revising and amending the present

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Constitution.” The question was submitted to the people on the 4th Thursday of May, 1900, and resulted as follows: For a convention, 77,362 votes; against a convention, 60,375 votes. Under an act of the General Assembly approved on the 16th of February, 1901, providing for the election of delegates and for other purposes, the number of delegates to be chosen was fixed at one hundred and the election was held on the 4th Thursday of May, 1901. The delegates chosen to the convention were divided politically into eighty-eight Democrats and twelve Republicans.

In the spring of 1901, while practising my profession in the city of Washington, I received a letter from my lifelong and highly esteemed friend, Dr. John S. Mitchell, informing me that some of the good people of Bedford desired that I should become a candidate to represent them in the convention. I replied that I would consider it a very high honor, and if elected would serve them with great pleasure and to the best of my ability. At the primary that was afterwards held for the nominations of the candidates, my friend John Thompson Brown and myself were chosen and were duly elected at the ensuing election. When it is considered that 206 I had been long absent from the county and had only visited it occasionally, my election, under the circumstances, was certainly a very unusual compliment and I shall never cease to prize it as such. As a matter of course, there were objections made to my election. It was objected by some that I was too old and by others that I did not live in the county and that the people should be represented by a man who went in and out among them every day and thus had an opportunity to know their sentiments and wishes upon the all-important questions of the hour. To the first objection I replied that we are never old while the heart is young; and to the second, that I had been only a temporary sojourner in the city of Washington, that I had always regarded Bedford as my home, had never failed to pay my taxes there, that I was a registered voter in the county, and that although I was compelled by circumstances to be absent for a time, I had always felt like exclaiming, “Carry me back, carry me back to Old Virginia.”

The convention met in the Hall of Delegates at Richmond on the 12th day of June, 1901, and organized by the election of myself as president, Joseph Button as secretary, Frank B.

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Watkins as sergeant-at-arms, and A. O. Sullivan and P. E. Lipscomb as first and second doorkeepers. William A. Anderson of Rockbridge was elected president *pro tem*. I trust I may be pardoned for introducing here the following extracts from the Journal:

“Mr. Moore, of Fairfax, nominated Mr. John Goode, of the county of Bedford, as follows:

Mr. Chairman and Gentlemen of the Convention:

The very brief but very brilliant list of those who have presided over our Constitutional Conventions can by no possibility lose anything in distinction when we add to it the name of the gentleman I now present, the honorable member from the county of Bedford, Mr. John Goode.

So far as the record shows, it was not considered necessary at the time of their selection to speak in detail of the men who have preceded him in this high station—such men as Edmund Pendleton, Philip Barbour, and John Y. Mason. It is equally unnecessary to-day to speak in detail of Mr. Goode.

His career has run through a period of half a century. The country knows him, the State knows him, and both esteem him. They both give him their entire confidence. He has been much in the public service, and whether discharging official duties in Richmond or at Washington, the elevation of his character, the conservatism, strength, and cultivation of his intellect, his gifts as an orator, and his perfect fidelity have won for him continually increasing respect and admiration.

So far as his devotion to Virginia is concerned—the Virginia to which at this time we are turning in our thoughts with peculiar love and affection—it has been complete and absolute. He cherishes all of her memories. He is imbued, as few men now are, with the splendid spirit of her past. He preserves to himself, and he aims to preserve for all the people, the great lessons of her history and her traditions. As for her present, he understands it—the problems that painfully press for solution and the difficulties that

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surround their consideration. Though far advanced beyond the time to which enthusiasm and hope seem especially to belong, full of courage he looks forward now to her future with faith in the destiny of the Commonwealth which he has served in days gone by, and which he is to serve again.

Mr. Goode's is a familiar presence in this historic hall. Here in the springtime of his life he sat as a member of the General Assembly. Here, when his powers had matured, he stood with the statesmen of Virginia and the South, dealing with mighty issues which devolved upon the Secession Convention and the Confederate Congress. And now he comes here again, in the evening of his days, to contribute what may be his last public labors to the great work which the sovereign people of this Commonwealth have decreed. Unchallenged and unsurpassed in experience and patriotism, in wisdom and in moderation, Mr. Chairman', I respectfully nominate him for the presidency of this convention.

"Mr. Daniel, of Campbell, seconded the nomination in the following words:

Mr. Chairman:

I shall detain the convention but a moment, and shall add but a word to what has been so admirably and eloquently said by the member from Fairfax. There is no man in our Commonwealth who is better or more favorably known throughout its limits than the distinguished gentleman whom he has put in nomination. With ripe wisdom, and an enthusiasm for what is right, honorable, and just (which enthusiasm he has borne throughout his life), we may well say of him that he has sounded a clear note over all of the battlefields of patriotism and of true Democracy in the Old Dominion, and that he has not only preached, but he has acted up to the true Jeffersonian test of office-holding, in giving to his fellow-statesmen and countrymen the example of a life which has been honest, just, and capable in all of its undertakings.

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Possessing the universal confidence of this convention, it affords me great pleasure to second his nomination; and possessing the confidence of the people of the Commonwealth, I know they will welcome the fact that we have made the Hon. John Goode the president of this body.

“Mr. Goode, being declared elected president; took the chair and addressed the convention as follows:

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Gentlemen of the Convention:

I beg leave to tender to you my sincere and heartfelt thanks for the distinguished honor you have conferred upon me; to bespeak your kind forbearance towards my shortcomings while I shall occupy the chair, and to invoke your generous support in the discharge of the responsible duties to which you have called me with such flattering unanimity.

It is indeed a high distinction to be chosen as the presiding officer of this body of Virginians, clothed temporarily with the sovereignty of the State, and commissioned by her people to execute the most important trust that could possibly be confided to their representatives.

In obedience to the voice of our constituents, we have come from all sections of the State to take counsel together, to interchange opinions, and to determine questions of the most momentous magnitude which vitally affect the peace, welfare, and happiness of all our people.

It is no easy task to frame the organic law of a great Commonwealth like ours. It is a task to be approached in the fear of God, with sole reference to the public good and with unaffected diffidence as to our capacity to measure up fully to all the requirements of the occasion.

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It has been said that the greatest of all builders are the builders of States. The time has been when Virginians were recognized as master builders in the work of framing constitutions. They promulgated the first written Constitution for a free and independent Commonwealth ever known to mankind. The convention which framed that Constitution met in the old Colonial Capitol at Williamsburg on the 6th day of May, 1776. It was composed of men whose names have been linked with immortality—men who will be held in grateful remembrance by their admiring countrymen as long as liberty shall have a votary upon earth. It is no exaggeration to say that the “Declaration of Rights” drawn by George Mason and adopted by that convention is the most complete summary of the rights of man and the principles of free government that has ever been furnished to the world. The Constitution of Virginia adopted on the 29th of June, 1776, continued in operation more than half a century. On the 5th day of October, 1829, another convention of intellectual giants assembled in the city of Richmond and adopted an amended Constitution on the 14th of January, 1830. That convention has never been surpassed in any age or any country in learning, wisdom, ability, and patriotism. In October, 1850, the third Constitutional Convention of Virginia assembled in this city and adopted an amended Constitution on the 31st day of July, 1851. It was composed of able and patriotic men, though not so distinguished, perhaps, as their predecessors of 1776 and 1829. During the dark days of reconstruction, and before the passions engendered by the war had cooled, another convention assembled in this city in December, 1867, and adopted the Constitution under which we now live. That convention was composed, in great part, of aliens to the Commonwealth and newly emancipated slaves. Virginians to the “manor born,” who owned the property, paid the taxes, and represented the virtue and intelligence of the State, were placed under the ban of proscription and excluded from its halls. The Constitution framed by that convention was adopted by the people of Virginia under duress and constraint as a condition precedent to the readmission of the State into the Union and its representation in Congress. It is not only obnoxious, as a matter of sentiment, on account of the circumstances attending its formation and adoption, but the government established by it is, in many respects, unsuited to existing conditions 209

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and unnecessarily expensive. After submitting patiently for more than thirty years, the people of Virginia have called this convention, and they will be grievously disappointed if we shall fail to reduce the expenses of our State, county, and city governments. That reduction can be accomplished by a thorough reform of our entire judiciary system and the abolition of all offices that may be dispensed with without detriment to the public service and with due regard to honest and efficient administration. The ordinary expenses of government must be met. The unfortunate insane, deaf, dumb, and blind must be provided for. We are bound by every consideration of duty and of honor to take care of our disabled Confederate veterans and smooth, as far as possible, their pathway to the grave. The time is not distant when the State will be required by law to pay a higher rate of interest on her public indebtedness. Under these circumstances, it becomes absolutely indispensable to reduce expenses if we would escape from additional burdens of taxation.

Another subject of transcendent interest and importance which will engage our attention is that of suffrage. The right of suffrage is not a natural right. It is a social right, and must necessarily be regulated by society. Virginia can regulate it within her own borders according to her sovereign will and pleasure, provided that in so doing she does not violate the Constitution of the United States. That Constitution does not confer the right of suffrage upon any citizen or class of citizens, but it prevents the State or the United States from giving preference to one citizen over another "on account of race, color, or previous condition of servitude." Before the adoption of the fifteenth amendment that could have been done. Now it cannot be. The white people of Virginia have no animosity or prejudice whatever towards the colored race. On the contrary, they entertain for the members of that race the most kindly feelings and desire to help them in every legitimate way, but they believe that the dominant party in Congress not only committed a stupendous blunder, but a great crime against civilization and Christianity when they turned a deaf ear to the advice of their wisest leaders and required Virginia and the other Southern States under the rule of the bayonet to submit to universal negro suffrage. The negro had just emerged from a state of slavery. He had no education. He had no experience in the duties of citizenship.

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He had no capacity to participate in the functions of government. The omniscient Ruler of the Universe for some wise purpose made him inferior to the white man, and ever since the dawn of history, as the pictured monuments of Egypt attest, he had occupied a subordinate position. In the language of a great Virginian on another occasion, "During the long revolving cycle of intervening time he had founded no empire, built no towered city, invented no art, discovered no truth, bequeathed no everlasting possession to the future, through lawgiver, hero, bard or benefactor of mankind." Under the circumstances existing at the period of reconstruction, the bestowal of universal suffrage upon the negro was a grievous wrong to both races. It would have been far better for the negro, as well as the white man, that intelligence should be permitted to govern. When the era of good feeling between the sections shall be entirely restored and all the hates growing out of the unhappy fratricidal strife "shall be forever in the deep bosom of the ocean buried," it may be that our Northern fellow-citizens for the good of our common country and the elevation of American citizenship may consent to the repeal of the fifteenth amendment. That would be "a 210 consummation devoutly to be wished," but until that auspicious day shall come we must adapt ourselves to the conditions in which we are placed. The fifteenth amendment provides that "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of race, color, or previous condition of servitude." It is a part of the supreme law of the land, and as such we are bound in honor and in good faith to observe and obey it. Subject to the limitations referred to, this convention undoubtedly has the power to provide for the restriction of suffrage as it may deem most wise and expedient. How is this difficult problem to be solved? It is not my province to suggest at this time what your action should be. That will be determined by your own superior wisdom after calm reflection and full deliberation. I beg leave, however, to call your attention briefly to the provisions on this subject which have been incorporated into the Constitutions recently adopted by some of our sister States of the South. The new Constitution of Mississippi adopted in November, 1890, which, with some modifications, has been adopted by South Carolina, confers the right of suffrage upon all the sane male inhabitants of the State, who have attained the age of

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twenty-one years, who have resided in the State two years, and one year in the district, city, or town where they offer to vote, who have never been convicted of certain infamous offenses, and who, on or before the first day of February of the year in which they offer to vote, have paid all the taxes legally required of them, and which they had an opportunity to pay for the two preceding years, and who shall have been duly registered as voters as required by the Constitution.

It requires also a poll-tax of \$2.00 to be paid to the State, and authorizes the counties to impose an additional poll-tax of not more than \$1.00; the whole of the poll-tax in both cases to be devoted exclusively to the common schools. It also provides that on and after the first day of January, 1902, every elector shall, in addition to the foregoing qualifications, be able to read any section of the Constitution of the State, or he shall be able to understand the same when read to him or give a reasonable interpretation thereof. The validity of that Constitution has been sustained by the Supreme Court of the United States in the case of *Williams vs. Mississippi*, reported in Vol. 170 of the Supreme Court's reports. The court held unanimously that by its terms it did not conflict with the fourteenth and fifteenth amendments of the Federal Constitution. According to the testimony of men who enjoy the respect and confidence of the entire country, this plan has been found to be eminently satisfactory in Mississippi and South Carolina. Under its operation those two States have rapidly advanced in all the elements of material prosperity; there is less complaint of corruption in politics and the condition of the colored race is better than it has been since their enfranchisement in the days of reconstruction. The new Constitution of Louisiana disfranchises all citizens of that State who are unable to read and write except the owners of \$300 of taxable property, upon which the taxes have been paid, and those who were entitled to vote on the first day of January, 1867, under the laws of any State of the United States in which they then resided, and any son or grandson of such persons twenty-one years of age at the adoption of the Constitution. In the summer of 1900 the people of North Carolina, by an overwhelming majority, adopted an amendment to their State Constitution which prevents any citizen from voting who is unable to read

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and write, but excepts from the operation of that clause all those who were entitled to vote in any State on the first day of 21st January, 1867, or at any time prior thereto, or who are descended from any such voters. The Louisiana and North Carolina plan has been strongly endorsed by many wise and patriotic statesmen, but it has not yet been subjected to the test of judicial scrutiny, and learned lawyers differ as to its validity under the limitations of the Federal Constitution. The Constitution of the State of Georgia, one of the most progressive and prosperous of all the Southern States, provides that every male citizen of the United States, twenty-one years of age, who shall have resided in that State one year next preceding the election, and shall have resided six months in the county in which he offers to vote, and shall have paid all taxes which may have been required of him, and which he may have had an opportunity to pay except for the year of the election, shall be deemed an elector.

In addition to the plans referred to, it has been recommended by some whose opinions are entitled to the greatest respect, that the best solution of the problem would be the insertion of a suffrage clause in the new Constitution requiring the payment of a capitation tax as a prerequisite, the payment of all other taxes, and prescribing an educational or property qualification, with an exception in favor of those and the descendants of those who have rendered military service to the State or country in time of war. It is not to be supposed that this convention will be content to copy in every particular the work of any other body. We are here as Virginians to frame a Constitution for Virginia. She has been accustomed heretofore to lead and not to follow, but I have thought that it might not be altogether inappropriate to call attention to the experience of our sister States of the South which have been confronted with similar conditions. Permit me to express the earnest hope that as the beneficent result of any suffrage plan you may adopt, politics in this State will be so purified that in all the years to come her escutcheon shall never be stained by any act of fraud, bribery, false registration, false counting, or any debauching and demoralizing methods in the conduct of elections. The safety and perpetuity of our free institutions depend upon the purity and inviolability of the ballot.

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In addition to the subjects to which I have adverted, there are others of great interest and importance, such as the adoption of a wise and equitable system of taxation and the correction of unequal and unjust assessment of property, both real and personal; the regulation of the trusts as far as it can be done under the limitations of the Federal Constitution, so as to protect our people, if possible, from the encroachment of corporate greed and corporate power; and the adoption of a liberal system of public instruction so that all the children of the Commonwealth may receive the benefits and blessings of a common school education, and so as to secure larger appropriations for the schools and longer school terms.

In this the opening year of the twentieth century, as we look down the far-reaching slope of the century that has passed, we have abundant reasons to render thanksgiving to the Omnipotent Ruler that thus far “He hath led us on, and thus far His power hath preserved our ways.” Invoking His guidance and blessings upon our work, mindful of the proud traditions of the Commonwealth, but looking to the future rather than to the past, animated by a spirit of fairness and justice to all classes and to all interests, let us dedicate ourselves to the task of framing a Constitution for Virginia that will be suited to her present conditions and worthy of her ancient renown—a Constitution that will establish justice, insure domestic tranquillity, and promote the welfare of all her people—a Constitution that will attract to her borders immigration and capital to assist in developing her untold treasures of soil and mine and forest and river—a Constitution under which she may move forward through the coming years over the bright track of progress upon a new career of prosperity and glory.

Soon after the assembling of the convention, and before the transaction of any business, Mr. Alfred Thom of Norfolk City, who was recognized as one of the ablest and most talented members of the body, offered a resolution that the members before entering upon their duties be required to take the oath prescribed by the Underwood Constitution for State officers. The resolution was earnestly advocated by Mr. Thom and other prominent

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members, upon the ground that if the members were not required to take the oath of State officers, their acts would be altogether null and void. On the other hand, it was as earnestly contended by several distinguished gentlemen that the members of the convention could in no proper sense be regarded as officers of the State; that they had been clothed temporarily by the people with sovereign power; that they were, to all intents and purposes, the people; that the people, not being able to assemble *en masse* at the capital in order to frame a Constitution, had delegated their authority to the members as their agents and that the members could not honestly and conscientiously take an oath to support a Constitution which they had come together to alter or amend, and perhaps destroy.

After an able and protracted debate, the convention on the 28th of June rejected the proposition of Mr. Thom by a vote of 69 to 14. It may be well to call attention to the fact that when the suit to set aside the new Constitution was recently instituted in the United States Court at Richmond, it was urged, among other objections, that it was invalid because the members, when they met in convention, had failed to take the oath prescribed by the then existing Constitution. The Chief Justice who presided at the trial overruled this objection, among others, and sustained the validity of the new instrument. That decision was afterwards affirmed by the Supreme Court of the United States.

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During the sessions of the convention its business was temporarily suspended to enable the members to take part in two exercises of exceeding interest and importance. On the 19th of September, 1901, memorial exercises in honor of the lamented President McKinley were held in the hall of the convention. Rev. Dr. W. V. Tudor, of the Methodist Episcopal Church, assisted by Frank W. Cunningham and a quartette of singers, conducted the religious exercises in a most solemn and impressive manner. Memorial addresses were delivered by the President of the convention; Rev. Dr. Tudor; Governor J. Hoge Tyler, representing the Executive Department; Hon. R. H. Cardwell of the Court of Appeals, representing the Judicial Department; Hon. Henry T. Wickham, President *pro tempore*

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of the Virginia Senate, representing the Legislative Department; and by Dr. Richard McIlvaine, J. H. Ingram, T. L. Moore, Robert W. Blair, and William A. Anderson, members of the convention.

On the 1st day of January, 1902, the very unusual spectacle was presented of the installation of the newly elected State officers in the hall where the convention was sitting. On that day, Hon. A. J. Montague, Hon. Joseph E. Willard, and Hon. William A. Anderson, in the presence of the convention, took the oath of office as Governor, Lieutenant-Governor, and Attorney-General, respectively.

The convention took several short recesses, and on the 26th of June, 1902, adjourned *sine die*. It may be truthfully said that there has never been, in the history of the Commonwealth, or indeed of the country, a more faithful, dignified, or conscientious body of men assembled. Having been a member of the Virginia General Assembly, of the Secession Convention of 1861, of the Confederate Congress, and of the United States Congress, I have enjoyed exceptional opportunities to observe the proceedings of parliamentary assemblies, and I have no hesitation in saying that I have never known any assembly whose members conducted themselves toward each other with greater decorum or more unflinching courtesy. And it is no exaggeration to say that the Virginia Convention of 1901–2 would compare favorably with 214 any other deliberative assembly in point of ability, learning, eloquence, and patriotism. As I very rarely participated in the debates, it is no violation of good taste for me to say that they were uniformly conducted on a high plane and were marked by strong reasoning and unusual eloquence.

Perhaps the most brilliant debate of the session was that which occurred on the question of proclaiming the new Constitution or submitting it to the people for ratification or rejection. The strongest and most eloquent men of the body participated in the debate and many of them won fresh laurels. It was urged by those who advocated submission, that the act of the General Assembly, approved February 16, 1901, which provided for the election of the delegates to the convention, required that the revised and amended Constitution

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should be submitted to the people for ratification or rejection. And again, that the State Democratic Convention, held at Norfolk, before the question of calling the convention had been submitted to the people, had declared it to be the sense of the party that the new Constitution, when completed, should be submitted to the people, and that the convention was bound, in good faith, to carry out that pledge. Various other arguments were urged by the friends of submission, but I do not now recall them.

On the part of those favoring proclamation, it was insisted that the General Assembly, in stipulating that the Constitution should be submitted to the people, had exceeded their authority, and that they had no power to bind a sovereign convention; that the convention was in no sense a political body and owed no allegiance to the Democratic Convention at Norfolk, whose members had been chosen for other purposes and with no reference whatever to the question involved; that the people had given unmistakable evidence of their approval and indorsement of the new Constitution by public meetings, in the newspaper press, and by private correspondence; that in many counties the people had, after due notice, met in public convention and instructed their representatives to vote for proclamation, and that in view of such demonstrations of public opinion, it would be impolitic and unwise to incur the unnecessary expense and sacrifice attendant upon an exciting campaign for the purpose of explaining to the people the merits of an instrument which they had already accepted and approved. On the 29th of May, 1902, the question was submitted to the convention and resulted in favor of proclamation by a vote of 47 to 38. Steps were immediately taken to insure the recognition of the new Constitution by all departments of the government as soon as it was adopted by the convention. It was adopted on the 26th of June, 1902, by a vote of 90 to 10, and was subsequently signed by 85 Democratic and 2 Republican members, three Democratic members being unavoidably detained from their seats at the time.

Under the rules adopted by the convention for its government, it became my duty to appoint the various committees. This was a delicate and responsible task, especially in so far as involved the selection of the chairmen. The embarrassment arose from the

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wealth of the material and the abundance of riches. Under the rules, I was compelled to overlook the just claims of gentlemen who were in every respect well qualified to fill the position of chairman creditably to themselves and acceptably to the convention. After much careful attention and consultation with friends, the following selections were made, and I have the satisfaction of knowing that they proved to be highly acceptable: William A. Anderson, Chairman of Committee on Revision; Rufus A. Ayres, Chairman Committee on Public Institutions and Prisons; Thomas H. Barnes, Chairman Committee on County Organization; Allen Caperton Braxton, Chairman Committee on Corporations; David Tucker Brooke, Chairman Committee on Cities and Towns; T. W. Harrison, Chairman Committee on Privileges and Elections; Wm. E. Cameron, Chairman Committee on Executive Departments; John W. Daniel, Chairman Committee on the Elective Franchise, Qualification for Office, Basis of Representation, etc.; Virginius Newton, Chairman Committee on Taxation and Finance, and after his resignation, Henry Fairfax; Carter Glass, Chairman Committee on Reporting; Berriman Green, Chairman 216 Committee on Preamble and Bill of Rights; Eppa Hunton, Chairman Committee on Judiciary; James H. Lindsay, Chairman Committee on Journal and Enrollment of Ordinances; Richard McIlvaine, Chairman Committee on Education and Public Instruction; R. Walton Moore, Chairman Committee on the Legislative Department; Henry C. Stuart, Chairman Committee on Agricultural, Manufacturing, and industrial Interests and Immigration; C. Harding Walker, Chairman Committee on Accounts and Expenditures; and Eugene Withers, Chairman Committee on Reduction of Expenses.

After the final adjournment of the convention, the members were tendered an elegant banquet by many patriotic and public-spirited citizens of Richmond, a city which has long been celebrated for its elegant and refined hospitality. At this banquet the Governor of the State and many members of the convention delivered touching and appropriate, addresses, but without detracting in the least from others, I may be permitted to say that the most eloquent speech of the evening was that delivered by J. C. Wysor of Pulaski, in

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response to a sentiment proposed in honor of southwestern Virginia. It was a perfect gem of appropriateness and beauty.

Since the final adjournment of the convention, nine of its members have passed from the scenes of earth and been numbered with those that were but are not—Messrs. Bristow, Chrismond, Green, Hancock, Lawson, Newton, Pettit, Phillips and Tarry. Having acted well their part in this life let us hope that their immortal spirits are now happy in the realms of the blessed.

While the revised and amended Constitution may not be altogether free from objections or entirely acceptable in every respect, it is, in my opinion, the best Constitution that could have been framed under the circumstances, and certainly it is a very decided improvement upon that under which we formerly lived.

When the members of the convention assembled they found themselves confronted with most serious conditions. 217 They could not disregard the 14th and 15th amendments of the Federal Constitution, and were bound to obey them as a part of the supreme law of the land. They realized that the different sections of our State, not being entirely homogeneous, held conflicting views upon the all-absorbing subject of suffrage. For many months they wrestled with that vexed question. In the language of the Supreme Court of Mississippi, they swept the field of expedients. They have adopted a plan of suffrage which will accomplish the paramount object for which the convention was called, a plan which will effectually eliminate illiterate negro suffrage, and at the same time preserve the rights of the white man as far as it can possibly be done without violating the 15th amendment.

They have cut down the expenses of the State government.

They have reduced the rate of taxation, because they felt that they had no right to take from the people any more money than is absolutely necessary to defray the expenses of government economically administered.

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They have adopted a new jury system which will not only greatly facilitate the trial of causes, but save considerable expense to the State as well as to the counties, cities and towns.

They have introduced salutary reforms in the executive, legislative, and judiciary departments.

They have made valuable changes in the organization of the counties and in the government of the cities and towns.

They have devised a just and equitable system of taxation and, by changing the system of exemption, have added largely to the taxable values of the State.

They have adopted a plan for the government of the public institutions and prisons, which will not only greatly improve their efficiency, but remove them entirely from the field of party politics, a much-needed reform.

They have made it mandatory upon the General Assembly to enact laws preventing all trusts, combinations and monopolies inimical to the public welfare.

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They have established a corporation commission with the power of supervising, regulating, and controlling all transportation and transmission companies in all matters relating to the performance of their public duties, and their charges for the same. This has been done with no purpose to embarrass the corporations in the performance of their important public functions, but to protect the people from unreasonable and unjust exactions.

Without undertaking to enumerate all the beneficent changes that have been made, I have no hesitation in expressing the opinion that the members of the convention have builded better than they knew.

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It is specially gratifying to know that, under the operation of the new Constitution, the State is now enjoying greater financial prosperity than ever before since the termination of the war; that her public school system has been very much improved; that there is a large surplus in her public treasury; that peace and happiness, truth and justice, prevail throughout all her borders; that there is no taint of fraud in the conduct of her elections and no charge of false registration or illegal tampering with the sacred right of the ballot, "the right preservative of all rights." Surely we have abundant reason to rejoice and to felicitate each other that our beloved Commonwealth, with her face turned toward the morning, seems to have started upon a new career of prosperity and glory.

It was with profound regret I took my leave of the beautiful city of Richmond. Although not a resident, I have been a sojourner there from time to time in a representative capacity for more than half a century. During all those intervening years it has been my good fortune to enjoy the elegant and refined hospitality for which that proud, historic capital has been so long justly celebrated. Perhaps there is no city in the land around which so many cherished associations and so many hallowed memories cluster. There, in the days of the colony, Patrick Henry, the inspired orator, kindled the flame of liberty in the hearts of the people by his bold denunciation of British tyranny. There, in June, 1788, 219 the Virginia Convention assembled to ratify the Federal Constitution, adopted at Philadelphia in 1787; that wonderful monument of wisdom and patriotism pronounced by Mr. Gladstone to be the greatest work ever struck off at a given time by the brain and purpose of man. Before consenting to ratification the convention recommended the first ten amendments, which were afterwards adopted by the Congress on motion of Mr. Madison, and which have proved to be so potential in restraining the encroachments of Federal power on the liberties of the individual citizen and the rights of the Sovereign States.

There assembled the great Constitutional Convention of 1829–30, composed of such men as John Marshall, James Madison, James Monroe, John Tyler, John Randolph, Abel P. Upshur, Phillip Doddridge, Chapman Johnson, Benjamin Watkins Leigh,

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Littleton Waller Tazewell, and many other illustrious sons of the Old Dominion. In that convention the fundamental principles of free government as involved in the proper basis of representation and the just distribution of powers among the three co-ordinate departments were ably and exhaustively discussed by real statesmen, who have never been surpassed in wisdom, learning, and patriotism. There, in 1850, assembled another Constitutional Convention composed of many able and patriotic men who have left their indelible impress upon the times in which they lived. There, on the 13th of February, 1861, assembled the Virginia Convention which, after exhausting every effort to bring about pacification between the discordant and belligerent sections of the Union, was driven to the adoption of an ordinance of secession by the proclamation of President Lincoln calling upon Virginia to furnish her quota of 75,000 troops to coerce the seceding States of the South. There, in July, 1861, was established the Capital of the young Confederacy, which rose like a meteor athwart the sky and fell without a single blot or stain upon its proud escutcheon. There sat the Confederate Congress from the 18th of February, 1862, to the 18th of March, 1865. During all that time a powerful foe was thundering at the gates of the beleaguered city. The flashes of the guns might be seen almost daily on both sides of the 220 river by an observer standing on Capitol square. But, disregarding the maxim *inter arma silent leges*, the chosen representatives of the people faithfully and patriotically addressed themselves to the task of adopting the necessary measures to maintain our armies in the field. There stood the home of Jefferson Davis, the White House of the Confederacy, under whose hospitable roof the lights shone night after night o'er "fair women and brave men." And there, too, is beautiful Hollywood, the city of the dead, within whose sacred precincts repose the ashes of many brave soldiers of the Confederacy and many illustrious sons of Virginia, whose deeds and utterances have rendered her name immortal. Nowhere else on this continent can you find more elevating, ennobling and inspiring associations.

Chapter XV The peculiar institution—The introduction of African slaves into Virginia—The relations existing between the white and colored races since that time.

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The meeting of the House of Burgesses in Virginia on the 30th of July, 1619, the first legislative assembly that ever met in North America, was followed a month later by another event of far-reaching consequences. I refer to the arrival at Jamestown of a Dutch man-of-war with twenty negroes on board, that were sold to the colonists. This was the first introduction of African slavery into Virginia. The peculiar institution has perished amid the throes of a mighty revolution. Professing to know the sentiments of the Virginia people on this subject, I do not hesitate to affirm that, as a general rule, they rejoice on account of the abolition of slavery and none of them desire its restoration. But I am one of those who believe it was not altogether an unmixed evil. So far as the masters were concerned, one of the effects of the institution was to create a race of men who have never been surpassed in any age of the world's history for lofty independence of character and all those high qualities that constitute true manhood. Edmund Burke, the greatest, perhaps, of English statesmen, in his speech on conciliation with America, delivered in the British Parliament, attributed the development of the spirit of liberty among the masters of slaves to the fact that they were accustomed to command. He said, "The people of the southern colonies are much more strongly and with a higher and much more stubborn spirit attached to liberty than those northward." Perhaps the most distinguishing characteristic of the Southern people has been their knightly courtesy and chivalrous regard for woman, and as a consequence the history of mankind does not furnish a higher type of womanhood than was to be found 222 in Virginia and the South during the existence of the peculiar institution. Her young maidens were pre-eminent for beauty of person and of character, and the name of "Virginia matron" was held as the synonym of all that is dignified, refined, and graceful. She measured up fully to Milton's description of Eve.

"Grace was in her step, Heaven in her eye; In every gesture Dignity and love."

In the darkest hours of the Revolution the hopeful spirit and undying fortitude of the noble Virginia women rekindled the courage and nerved the arms of the struggling patriots. Our great-grandmothers refused, as a patriotic duty, to drink tea, although they knew it

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was essential to brilliancy of fancy and fluency of expression on all social occasions. The young maidens of that day, believing that "none but the brave deserve the fair," declined to accept the attentions of any young man, no matter what his circumstances in life might be, until he had served long enough in the patriot army to demonstrate by his valor that he was worthy of their love.

So much for the effect of the institution of slavery upon the white race. What was the effect upon the Africans themselves? It is no exaggeration to say that it lifted them from the depths of barbarism and ignorance and elevated them to such a high state of civilization and intelligence that after emancipation they were deemed by those in authority worthy to be clothed with all the rights of American citizenship and to participate in the delicate and responsible functions of government. The better opinion seems to be now that the Republican majority in Congress committed a monumental blunder when they determined, against the advice of their ablest and wisest leaders, to confer universal suffrage upon the lately emancipated slaves. But the fact remains that they did so and it is referred to here for the purpose of showing the wonderful progress and extraordinary improvement made by them since their ancestors emerged from the depths of barbarism in the jungles of Africa.

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Having been born and reared in a slave-holding community, I propose to notice briefly the condition of the negro in Virginia and the South before the war, during the war, and since the war. It is an undeniable fact that before the war the relations existing between the white and colored races of the South were of the most kindly character. Of course, there were some exceptions to the general rule. The master was influenced by self-interest, if by no higher motive, to provide for the comfort and well-being of his slaves. They were comfortably clothed, housed and fed. They were not required to perform an unreasonable amount of work. They had holiday at Christmas, Easter, Whitsuntide, and half the day on every Saturday. When they were sick they received the most careful attention, and the same physician who visited the white members of the family ministered at their bed-sides.

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The white and black boys on the same plantation played together, swam together, hunted and fished together, and not infrequently spent the entire night in hunting the opossum and the coon. The young lady of the family was usually attended by her favorite colored maid and there existed between them the tenderest and most devoted attachment. The little white children were nursed by an old black mammy, for whom they cherished an affection scarcely inferior to that felt for their own mothers. Mammy held undisputed sway in the nursery and her word was accepted as the law from which there was no appeal. There never was a happier race than the colored people at the South before the war. They had no cares and no responsibilities. They were sure of a comfortable support whether the seasons proved to be favorable or unfavorable. Their natural disposition was amiable and affectionate. While engaged about their customary work they usually sang the old plantation songs and made themselves merry. When the corn crop was gathered in the autumn there was a great occasion called a corn-husking, to which all the negroes on the adjacent farms were invited. A leader was appointed, who mounted the corn pile, walked back and forth, gave out the words of the song, and was recognized as the commander-in-chief of all 224 the forces. When the work was finished about midnight they all repaired to the kitchen, where a great feast had been provided, and after supper they brought out the banjo and fiddle and the young men and dusky maidens made merry with music and dancing until the "wee sma' hours" of the morning.

As to the conduct of the negro during the war, it may be truthfully said that it was without a parallel in history. He knew perfectly well that the ultimate success of the Union armies meant his freedom and that their failure meant slavery forever to him and his. And yet, under all the temptations and trying circumstances by which he was surrounded, he remained true and loyal to his master and kept watch and ward over the defenseless women and children who had been committed to his charge. What must have been his aspirations, we may well infer from the song of the colored boatmen on the Southern rivers:

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"We pray de Lord He gib us signs Dat some day we be free. De norf wind tell it to de pines, De wild duck to de sea; We hab it when de church bell ring, We dream it in de dream, De rice bird mean it when he sing, De eagle when he scream."

In this connection I beg leave to introduce the following extract from an address delivered by Henry Grady, that most eloquent orator of the South since the war: "What of the negro? This of him: I want no better friend than the black boy who was raised by my side and who is now trudging with downcast eyes and shambling figure through his lonely way of life. I want no sweeter music than the crooning of my old mammy, now dead and gone to rest, as I heard it when she held me in her loving arms, and bending her old black face above me stole the cares from my brain and led me smiling into sleep. I want no truer soul than that which moved the trusty slave who for four years while my father fought with the armies that barred his freedom, slept every 225 night at my mother's chamber door, holding her and her children as safe as if her husband stood guard, and ready to lay down his humble life upon her threshold. * * * A thousand torches would have disbanded every Southern army, but not one was lighted. When the master, going to a war in which slavery was involved, said to his slave, 'I leave my home and loved ones in your charge,' the tenderness between man and master stood disclosed. And when the slave held that charge sacred, through storm and temptation, he gave new meaning to faith and loyalty. I rejoice that when freedom came to him, after years of waiting, it was all the sweeter because the black hands from which the shackles fell were stainless."

As to the attitude of the black race toward the white after emancipation, a great change seems to have come over them in Virginia and throughout the South. The older ones who lived in the days of slavery, remembering their former relations, are still uniformly polite and respectful in their bearing toward the whites, but it is a lamentable fact that as a general rule a different feeling seems to animate those of the younger generation.

Although the white people have shown every disposition to aid in elevating them in the scale of intellectual and moral being, they exhibit little or no appreciation of the kindness

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extended to them. After the war the old and young negroes were helped in every way by the whites, so far as their limited means and reduced circumstances would permit. They were permitted to occupy the same cabins free of charge, to cultivate the same gardens, and to get from the woods as much fuel as they needed. In case of sickness they were as kindly nursed as they had been in the olden times. The white people have expended millions upon the education of the blacks, and these vast sums have been derived almost exclusively from taxation imposed upon themselves. And yet the young men and women of the black race who have grown up since the war seem to cherish a feeling of animosity toward the whites in their midst. They flock to the towns and cities and are growing up in idleness. It is natural that they should vote the Republican ticket because they feel that they are indebted to the Republican party for their freedom; but how is this feeling of hostility to be explained? Unfortunately, when the war terminated the South was overrun by a horde of hungry carpetbaggers who exercised a very pernicious influence upon the blacks. They taught them to believe that their former owners were their natural enemies. They organized them into political leagues and their attention was very soon absorbed entirely with politics. They would believe anything and everything the carpetbaggers told them.

After the war, among the many carpetbaggers that drifted down South was a very plausible one who located in the State of Georgia. Soon after his arrival he met old Uncle Joe, a simple-minded and honest colored man of the neighborhood, and made a very pleasant impression upon him. He discoursed with great volubility upon the bright future awaiting the colored man at the South under the new order of things, and dwelt upon the promise of forty acres and a mule. Uncle Joe was delighted with his new acquaintance and believed every word he said. As they were about to separate the carpetbagger asked for a loan of five dollars. Uncle Joe readily assented to accommodate him, and let him have the sum requested, which was all the money he had in the world. The carpetbagger sat down and wrote what Uncle Joe thought was a bond, but when he went home, having unlimited faith in his old master, except in matters of politics, he asked him to read what

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the carpetbagger had written, and to his dismay he found it read as follows, "As Moses lifted up the serpent in the wilderness, even so have I lifted the last five dollars from old Joe's pocket."

One result of the bestowal of unlimited negro suffrage at the South has been to create in the breast of the negro the idea of social equality, an idea which the white people will never tolerate for a single moment. The Omniscient Ruler of the universe, for some wise purpose, has made them different, and all the waters of old ocean are not sufficient to wash out that difference. Social equality would lead to intermarriage and that would lead to the destruction of the 227 white race. To this desire for social equality may be attributed all the fiendish outrages which have been committed by black men upon unprotected and defenseless white females. It is a noteworthy fact that such outrages were never heard of in the days of slavery. The aspiration for social equality has been the source of this trouble.

In the present condition of the affairs at the South the labor problem has become a most serious one. As a general rule, the young blacks refuse to work upon the farms, and it has become absolutely necessary to supply their places with labor imported from abroad. How the experiment will turn out it remains to be seen. As yet it is an unsolved problem. Let us hope that the white people, who have heretofore proved themselves to be equal to any emergency, may yet be able to find a wise and proper solution.

Chapter XVI The Jamestown Ter-Centennial Celebration—Hearing before committee of House of Representatives—Appear before Georgia Senate and House with General Fitzhugh Lee—Address the General Assembly of Connecticut in favor of the celebration—My remarks before the committee of the House of Representatives.

On March 28, 1904, there was a hearing granted to the Jamestown Exposition Company by the Committee on Industrial Arts and Expositions of the House of Representatives. At that hearing, remarks were made by that gifted orator John Temple Graves of Georgia,

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S. Gordon Cummings, Barton Myers, John Swift Holbrook, T. J. Wool, Gen. Fitzhugh Lee, and myself. Subsequently, by invitation of the Jamestown Exposition Company, I accompanied General Lee to Atlanta, Georgia, and had the honor of appearing with him before the Senate and House of Representatives of that great State, for the purpose of bringing to their attention the proposed Ter-Centennial Celebration in 1907. We were received with marked courtesy and kindness by the Governor and other officials, and when we were escorted into the Hall of the House of Representatives, we found assembled not only the Senate and House in joint session, but a large concourse of ladies and gentlemen who evinced the deepest interest in the proceedings. At the conclusion of our addresses, we were assured by the Hon. Clarke Howell, who presided, that at the proper time Georgia would do her full duty in the premises and would certainly be represented at the proposed celebration in 1907. Since the lamented death of General Lee, I went with Mr. Gwyn T. Shepperd, the zealous and energetic secretary of the company, to Hartford, Connecticut, to meet, as far as we could, an engagement made by General Lee before his death to address the General Assembly of that State. We were accorded a hearing by the Joint Committee of the two Houses on Appropriations, and had the pleasure not only of addressing them, but a large number of other members who were present as interested listeners. We were treated with great civility and courtesy, and enjoyed very much our short stay in the beautiful and historic city of Hartford. The legislature made a handsome appropriation in aid of the Jamestown project.

Perhaps it may be of interest to copy here the remarks which I had the honor to make before the committee of the House of Representatives:

“STATEMENT OF HON. JOHN GOODE OF VIRGINIA.

“Mr. Goode. Mr. Chairman and gentlemen of the committee, as a former member of the House of Representatives from the Second Congressional district of Virginia, in which Jamestown is situated, and as a native-born son of the State, loving every inch of her soil, proud of her past history and profoundly interested in everything that concerns her

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prosperity and glory, I thank the committee for the courtesy extended in permitting me to appear before them and submitting a few observations in advocacy of the bill entitled 'A bill to provide for celebrating the first permanent settlement of English-speaking people by holding an international exposition of arts, industries, manufactures, and the products of the soil, mines, forests, and the sea in the vicinity of Jamestown and on and near the waters of Hampton Roads, in the State of Virginia, and to authorize an appropriation in aid thereof.'

"The preamble of this bill reads as follows:

Whereas it is desirable to commemorate in a fitting and appropriate manner the first permanent settlement of English-speaking people on the American continent, made at Jamestown, Virginia, on the thirteenth day of May, sixteen hundred and seven, in order that the great events of American history which have resulted therefrom may be accentuated to the present and future generations of American citizens; and

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Whereas that section of the Commonwealth of Virginia where the first permanent settlement was made is conspicuous in the history of the American nation by reason of the vital and critical events which have there taken place in the colonial, Revolutionary, and civil war eras of the nation, including not only the first permanent settlement of English-speaking people, but also the scene of the capitulation of Lord Cornwallis at Yorktown, and the scene of the first naval conflict between armor-clad vessels, the *Monitor* and *Merrimac*:
Therefore

Be it enacted, etc.

"During the time I shall occupy your attention, Mr. Chairman, I shall not undertake to discuss the details of this bill, but shall confine myself to the propositions enunciated in the preamble which I have read. In other words, I shall attempt to show that the present grandeur and glory of the Republic are directly traceable to the settlement of the colony

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at Jamestown. As my friend, Mr. Cummings, has said to you, the General Assembly of Virginia, at an extra session held in 1901, adopted a joint resolution expressing the opinion that suitable provision should be made for holding, on the 13th of May, 1907, a celebration worthy of this great nation, which from small beginnings at Jamestown has within the short period of three centuries attained the position of the foremost government upon earth and extended its dominion and its power across the continent. It also expressed the opinion that a suitable form of holding this celebration would be to hold an exposition in which the people of all our sister States of the Union should be invited to participate.

"In 1902 the General Assembly chartered the Jamestown Exposition Company and designated a location on Hampton Roads, on account of its historic interest, as the place for holding that exposition. The company has been organized, with Gen. Fitzhugh Lee as president, and an able board of directors, consisting of representative and influential citizens.

"Mr. Chairman, as you have been told, the General Assembly of Virginia has appropriated \$200,000 in aid of the project, and \$1,100,000 has been subscribed to the capital stock by public-spirited and patriotic citizens in tide-water Virginia. And now the exposition company comes to the Congress of the United States for the purpose of securing a suitable appropriation from the General Government.

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"The Chairman. Let me interrupt you there, Judge Goode. I do not understand that the legislature of Virginia has authorized an exposition. You propose by this bill that the Government of the United States shall authorize the exposition as well as appropriate the money, do you not?

"Mr. Cummings. If my friend will permit me, I can explain. The only control which the legislature of Virginia has over this exposition company is the ordinary police control which the Commonwealth has over a corporation which it creates. In so far as controlling the

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management of the affairs or methods of the company is concerned, the legislature has nothing to do with it; it is an independent company.

“The Chairman. So you are asking the Government of the United States to authorize this exposition, as well as to appropriate money to aid in defraying the expenses of the same?

“Mr. Cummings. That is it.

“Mr. Goode. That, as I understand it, is the object of the bill under consideration.

“Mr. Chairman, in this practical, utilitarian age, when the spirit of commercial greed so largely predominates and the great object of life with many seems to be to put money in the purse, we occasionally meet men who are disposed to ridicule and deride what they call mere sentiment; but such men forget that it is sentiment that rules the world. Many years ago Andrew Fletcher, a Scotchman, wrote the Marquis of Montrose a letter, in which he said: ‘I know a very wise man who believes that if a man were permitted to write all the songs of a people he need not care who wrote their laws.’ From time immemorial mankind has evinced a disposition to recall the traditions of the past, to preserve ancient landmarks, and to cherish sacred memories. There can certainly be no higher incentive to honor, virtue, and patriotism.

“Let us consider briefly, as germane to the bill, some of the circumstances attending the first settlement of the colony at Jamestown and some of the consequences resulting from that settlement.

“In the year 1578 Sir Walter Raleigh, a gay and gallant courtier, under a charter granted by Queen Elizabeth, sailed 232 from England with the purpose of planting an English colony in North America. Unfortunately his fleet, consisting of seven vessels, met with disaster at sea and the enterprise was abandoned by order of the privy council. In 1584 Raleigh sent out two other vessels with a colony on board, which landed at Roanoke Island and took possession of the country, naming it Virginia, in honor of the virgin Queen. That

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colony perished for the want of provisions, and Raleigh, having incurred the displeasure of the Queen, was thrown into prison and upon the accession of James I to the throne was convicted of high treason and cruelly executed. But, sir, the great idea which had originated with Raleigh was not allowed to perish with him. In 1606 King James chartered the London Company and granted to it all the southern portion of that immense domain known as Virginia.

“This company sent out three vessels, the *Susan Constant*, the *God Speed*, and the *Discovery*, with 105 colonists on board. After a stormy passage, in which they encountered all the perils of the deep, they entered the Chesapeake Bay on the 26th of April, 1607, and, sailing up the river Powhatan, which they called the James, they landed on the 13th of May, 1607, upon a peninsula about 40 miles above the mouth of the river and commenced to build the town to which they gave the name of Jamestown.

“Mr. Chairman and gentlemen of the committee, who can adequately describe the effect upon the history of mankind of the planting of that colony? It was not only the commencement of the English system of colonization which has made Great Britain one of the foremost powers of the globe, but it resulted in the almost exclusive possession of North America by the Anglo-Saxon race.

“The charter of the London Company guaranteed to the colonists all the rights of Englishmen, and when they landed at Jamestown they brought with them those free institutions which have been enlarged and improved from generation to generation, until now they are zealously guarded and cherished as the noblest inheritance that belongs to man.

“Jamestown should be held in everlasting remembrance for many reasons. It was there that the first jury was impaneled 233 on American soil. It was there the first legislative assembly ever met in North America. It was there that the house of burgesses met the 30th of July, 1619, more than a year before the *Mayflower* with the heroic Pilgrims sailed

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from the harbor of Southampton. That house of burgesses was composed of delegates elected by the people, thus promulgating that immortal principle of free government that all lawful authority emanates from the people and that all governments derive their just powers from the consent of the governed.

“It was at Jamestown that the first church spire in America was lifted toward the heavens. It was there the sound of the first church-going bell was heard to awake the echoes of the primeval forests. From that day to this, nearly 300 years, the church, like a pillar of cloud by day and a pillar of fire by night, has led the people through the wilderness of sin and laid broad and deep the foundations of Christian civilization and liberty.

“There are more places of historic interest in the immediate vicinity of Jamestown than in any other locality in the United States. Where else upon this continent can you find such memorials of the mighty past? Where else can you find such associations to quicken the pulse and inspire the hearts of the young with all those elevated principles and lofty desires which make ambition a virtue?

“Near by is the gamecock town of Hampton, where that large-hearted and public-spirited citizen, Benjamin Symms, in the year 1634, established the first free school known in North America.

“Farther on is the city of Newport News, named in honor of Captain Newport, who brought the news—and we think it ought to be ‘Newport’s News’ instead of ‘Newport News.’ It was named in honor of Captain Newport, who brought the news of succor and relief for the perishing, suffering colony at Jamestown. The city of Newport News within a few years has grown from a small, insignificant hamlet to a large and prosperous city, with the finest dockyard in the country, employing between 7,000 and 8,000 workmen, and turning out the largest and fastest battle-ships afloat.

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“Seven miles distant from Jamestown is the old colonial capital of Williamsburg, where may still be seen the foundations of the building occupied by the ancient house of burgesses, in which George Washington was received when he returned after Braddock's disastrous campaign, and where, as a tribute to his military skill and valor, the house voted him a sword. On that occasion he arose to make some acknowledgment of the honor conferred upon him, and was so oppressed with modesty and hesitation in his speech that the Speaker of the house said, ‘Sit down, Mr. Washington, sit down; your modesty is only equaled by your merit.’

“And there, too, Patrick Henry kindled the fires of the American Revolution when, with ‘thoughts that breathed and words that burned’ he denounced the aggressions of the Mother Country, and recounted the multiplied wrongs of the colonies. The members of the convention arose as one man and cried out, ‘To arms, to arms!’ just as his great prototype had moved the Athenians to exclaim, ‘Let us march against Philip, let us conquer him or die!’

“And there, too, may be seen the magazine from which Governor Dunmore took the gunpowder which he was compelled to restore by Patrick Henry at the head of volunteers from Hanover and other counties. And there still stands the venerable College of William and Mary, around which so many historic glories cluster. Founded in 1693 by the English sovereigns whose names she bears, she points to-day with maternal pride and tenderness to a long line of illustrious alumni who in their day and generation have illustrated the glory of American institutions and shed enduring luster upon the American name. Thomas Jefferson, the author of the Declaration of American Independence, of the statute for religious freedom, and founder of the University of Virginia; Benjamin Harrison, Carter Braxton, George Wythe, Thomas Nelson, and other signers of the Declaration of Independence; Peyton Randolph, the first president of the Continental Congress; John Marshall, the highest and best model the world has ever known of the able, upright, learned judge; James Monroe, the pure and incorruptible patriot whose administration was

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distinguished as restoring 235 the era of good feeling; John Tyler, the fearless statesman and brilliant orator, to whom the credit of the Ashburton Treaty and the annexation of Texas justly belongs; Winfield Scott, who bore the banner of his country in triumph from Vera Cruz to the City of Mexico and planted it upon the Halls of the Montezumas—all these and more than two hundred others who have been pre-eminently distinguished as scholars, divines, soldiers, statesmen, drank at her fountains of learning and carried with them from her halls those influences which rendered their names immortal and made their lives an ornament and a blessing to their country.

“Twelve miles distant is Yorktown, where the culminating scene of the great drama of the Revolution was enacted. There still may be seen the old custom-house, the oldest established in the United States; there may be seen the old Moore house, in which Lord Cornwallis signed the articles of capitulation when he surrendered to the allied armies of America and France; there may be seen the old Nelson house, the home of Thomas Nelson, the war governor of Virginia during the Revolutionary period, who sacrificed his entire private fortune in defense of the patriot cause and offered a reward of five guineas, during the siege of Yorktown, to any soldier who would throw a ball into his own dwelling house, supposed at the time to be occupied by Lord Cornwallis and the members of his staff.

“And there, too, stands that magnificent monument overlooking the waters of the York River, perhaps the most beautiful river in the world, a monument erected by the American Congress to commemorate the final victory at Yorktown. Upon the four sides of its base are emblems of the alliance between the United States and France, carrying out the original design of the Continental Congress, and a succinct narrative of the surrender. Thirteen female figures, representing the thirteen colonies, hand in hand, seem to be bearing on their shoulders a column adorned with thirty-eight beautiful stars, typical of the thirty-eight States at the time of its erection, culminating in Liberty herself, star-crowned and welcoming the people of all nations to come and share with us the blessings of free government. Underneath 236 the feet of the thirteen female figures are inscribed the

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words ‘One country, one Constitution, one destiny.’ The corner-stone of that monument was laid the 19th of October, 1881, with imposing ceremony.

“An appropriate address of welcome was made by President Arthur, the successor of the lamented Garfield, who had just been stricken down by the hand of an assassin, which was appropriately responded to by the representatives of our friends from across the waters—by the minister plenipotentiary of France, representing his own country and the family of Lafayette, our noble ally and friend; by Count Rochambeau, and Colonel Steuben, of the German army, a lineal descendant of that old soldier, once aide-de-camp to Frederick the Great, who left his fatherland to devote his sword to the cause of American freedom and joined the American army in the darkest hour of its history at Valley Forge and, as inspector-general, so reorganized that army that in a short time bare-footed, ragged militia went into action with the nerve and steadiness of veterans.

“The Centennial Ode, prepared by Paul H. Hayne, of South Carolina, was rendered by a full chorus, accompanied by the Marine Band from this city. The glad anthems of the people mingled with the inspiring strains of the Marsellaise, and the Star-Spangled Banner, were borne upon the wings of the wind across the broad waters and echoed back from the jubilant hills. Robert C. Winthrop, the Old Man Eloquent of Massachusetts, was the orator of the occasion, and it is sufficient to say that his address was worthy of the man. James Barron Hope, the poet-laureate of Virginia, was the poet. He delivered a magnificent epic which electrified the entire country, in the closing lines of which he exclaimed, with poetic fervor:

“‘Give us back the ties of Yorktown, perish all the modern hates; Let us stand together, brothers, in defiance of the fates; For the safety of the Union is the safety of the States.’

“Pardon me, Mr. Chairman, for dwelling so long upon the environments of Jamestown. Jamestown itself was the cradle of the American Republic. Standing upon that hallowed 237 spot, more than fifty years ago, a great orator said, ‘Here the white man first met the

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red man for settlement and civilization; here the white man wielded the first ax to cut the first tree for the first log cabin; here the first log cabin became a part of the first village; here the first village became the first State capital; here was laid the foundation of a nation of free men which has extended its dominion, and its millions across the continent to the shores of another ocean.' And if that orator had been speaking to-day he might have added, 'Has extended its dominion and its empire to far-off isles beyond the seas,' where I believe it is a somewhat disputed question whether the Constitution follows the flag or not.

"Mr. Chairman, it is sometimes said that we Americans are not at all oppressed with modesty, and that we are too much given to vainglorious boastings; but I submit, sir, that when we review the past history of our country we have abundant reason to rejoice and to render devout thanksgiving to the Omnipotent Ruler of the Universe, who controls the destinies of nations and of men.

"A beneficent Providence has lavished upon our country advantages and blessings such as have not been bestowed upon any other on the habitable globe. It is equaled by none in undeveloped treasures of soil and mine and river and forest, which only await the touch of skilled industry to start into imperial wealth and power. It is equaled by none in the wonderful increase of its population, the vast expansion of its territory, the countless productions of its industries, the measureless aggregate of its crops, and the marvelous prosperity of its people.

"We have grown from 3,000,000 to over 80,000,000 in population. We have grown from 13 weak and dependent colonies to 45 free, powerful, and prosperous States, to say nothing of the Territories in the Union and our recently acquired insular possessions. The American people, with aspirations unsatisfied by centuries of toil and achievement, are still pushing their conquests with irresistible energy, still vexing sea and land with their busy industry. They are still going forward felling the forests, tunneling the 238 mountains, bridging the rivers, connecting the two oceans by iron bands and the new ship canal at Panama. They have subjugated all the elements of the material universe and rendered

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them subservient to the comfort, convenience, and happiness of mankind. They have converted steam into a beast of burden and compelled it to plow land, saw timber, print books, compress cotton, excavate docks, and drive railways. They have harnessed electricity with its subtle power and used it as the medium of communicating intelligence with a rapidity unsurpassed by the speed of winds or the flight of birds. I undertake to say that no people in any age of the world's history have ever excelled the Americans in the fields of invention and discovery, as is shown by the records of your Patent Office in this capital city. It is the proud distinction of the inventor, the practical discoverer of useful improvements, that his achievements are permanent and his additions to the sum of human knowledge remain.

“As has been well said, ‘Kingdoms, empires, republics, may rise and fall; governments may strew with their wrecks the pathway of history; creeds of faith and systems of morality may come and go; the idle speculations of a thousand philosophic sects may perish; the learned wranglers of the schools may pass away and be forgotten, but the discoveries of genius alone remain. They are for all ages and for all times; never young and never old; they bear the seeds of their own life; they flow on in a perennial and undying stream. They are essentially cumulative, and giving birth to the additions which they subsequently receive they influence the most distant posterity, and after the lapse of centuries exert more power than they were able to do at the moment of their promulgation.’

“Sir, the humblest millwright has done more for the happiness of mankind than all the kings that lie embalmed in the catacombs of Egypt. The inventor of the plow that turns the deep soil of the fields, of the drill that plants them with corn at seeding time, of the reaper and mower that glean and gather their bountiful harvests, the inventor of the printing press, of the steam engine, of the telegraph, of the telephone, of the phonograph—these are more entitled to wear the crown of laurel than all the blood-stained warriors of antiquity. The names of Morse, Henry, Franklin, Fulton, and others will live and shine as bright as the eternal stars in the heavens long after the names of Cæsar, Alexander, and Napoleon have been buried in oblivion and forgotten forever; while the name of our own great Maury,

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the geographer of the sea, who explored the bottom of the great deep, made a map of its channels, and marked a safe highway for trade and travel, will be held in grateful and affectionate remembrance by his admiring countrymen as long as the centuries move or the oceans roll.

“And, Mr. Chairman, when we contemplate the structure of our Government, we are filled with admiration for the sagacity and the wisdom of the patriot fathers who conceived and planned it. Its object is the protection of the rights of the governed; it derives its just powers from the consent of the governed; its officers are the agents appointed by the people to execute their will. As Chief Justice Marshall said in the celebrated case of *Marbury v. Madison*, the Government of the United States is emphatically a government of laws and not of men; and Mr. Justice Miller, one of the greatest men I have ever seen on the Supreme bench, uttered words which deserve to live forever and to be engraven on the mind and the heart of every citizen when he said: ‘No man in this country is so high that he is above the law. Every officer of the Government, from the highest to the lowest, is but the creature of the law and bound to obey it. Under our system the law is the supreme power in the land.’

“Oh, sirs, what an inestimable privilege it is to be permitted to live in a land of liberty regulated by law. There is no room for mobocracy here. The courts are open for the enforcement of every right and the redress of every wrong. The public safety consists in holding the ship of state fast to the anchorage of the law. When the law ends not only tyranny but chaos and anarchy begin.

“Now, Mr. Chairman, I do not wish to weary the patience of the committee, but I will be very glad, with your permission, to refer to a few additional facts illustrating the propositions 240 contained in the preamble of the bill under consideration, and I will hurry through them.

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“Ever since the settlement of that colony at Jamestown the colonists have been distinguished for a strong love of liberty and a sturdy support of independence. In 1624, the house of burgesses resolved that the governor should not lay taxes or imposts except by consent of general assembly to be levied and applied as said assembly may appoint. In 1651, Cromwell sent commissioners, accompanied by a fleet, to bring Virginia in subjection to the commonwealth; but she was prepared to resist until articles of agreement were entered into which provided, among other things, that ‘the general assembly shall convene as formerly and transact the affairs of Virginia, and no taxes to be levied except by consent of the general assembly.’

“In 1676 Nathaniel Bacon, at the head of a volunteer organization, defied the royal authority on account of the manner in which Governor Berkeley had abused it in his commercial relations with the Indian tribes. Bacon was proclaimed a rebel. He drove Berkeley out of the capital and burned Jamestown. Such was his (Berkeley's) tyrannical disposition that he was cordially hated and despised by the colonists. He wreaked his vengeance upon them. One of the old burgesses, in a letter written to England, said ‘That man will hang the whole country if he is let alone,’ and Charles II said, ‘That old fool has hung more people in that naked country than I have done here for the murder of my father.’ An insight into his real character may be gathered by an examination of his official correspondence. In a letter written in 1671 to the lord commissioner of foreign plantations he says:

We have forty-eight parishes. Our ministers are well paid and, by my consent, should be better, if they would pray oftener and preach less. I thank God we have no free schools or printing, and I hope we shall not have these for one hundred years, for learning has brought heresy and disobedience into the world, and printing has divulged them and libels against the best government. God help us from both.

“In striking contrast with the character of Berkeley was that of Alexander Spotswood, confessedly the ablest governor of Virginia during her colonial period. Such was his

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241 administrative capacity that he at once inaugurated a new era of prosperity. He established schools for the instruction of the Indian children in the truths of the Christian religion. He established the first iron furnace in America. He improved the cultivation of tobacco, the great staple of Virginia. He explored her territory to the summit of the Blue Ridge Mountains and opened up that beautiful valley afterwards inhabited by that remarkable race of Scotch-Irish who so impressed themselves upon Washington by their patriotism and valor that in the darkest hours of the Revolution, when his army had been almost destroyed by privations and hunger, and his great heart was made to bleed on account of the sufferings of his men, he exclaimed, 'Leave me but a banner to plant upon the mountains of West Augusta and I will rally around me men who will lift our bleeding country from the dust and set her free.'

"It was upon that expedition of Governor Spottswood that he instituted the order of the Knights of the Golden Horseshoe, an order around which has been thrown such a glamor of poetry and romance.

"Sir, what must have been his feelings when, standing at Swift Run Gap, now a historic pass in the Blue Ridge Mountains, he looked out on the panorama spread before him? And, Mr. Chairman, if he could have been permitted to lift the veil that concealed the future from his view he would have seen that valley inhabited by a strong, hardy, thrifty, independent race of men; he would have seen Virginia transformed from a weak, dependent colony into a sovereign, coequal member of the confederacy of States, extending the ægis of its protection over more than 80,000,000 people. But, like the patriarch Moses on Mount Nebo, he was only permitted to get a glimpse of the promised land. He died not long afterwards, and was buried at his country seat known as Temple Farm, which afterwards became famous as the place where Cornwallis signed the articles of capitulation.

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"Mr. Chairman, notwithstanding Virginia was principally settled by Englishmen and was the most loyal of all the colonies, she took the lead in resisting the exercise of arbitrary power by the British ministry and in inaugurating the American Revolution.

"On the 29th of May, 1765, her house of burgesses adopted the memorable resolutions offered by Patrick Henry which claimed for the general assembly the exclusive right to levy taxes and imposts, and denounced the stamp act which had just been passed by Parliament as illegal, unjust, unconstitutional, and having a manifest tendency to destroy British as well as American liberty.

"In 1769 she induced the other colonies to stand by Massachusetts when she was singled out for punishment on account of her brave assertion of the rights of the colonies. The historian Bancroft, in speaking of her resolutions adopted on that occasion and her address to the King, says of them:

They were calm in manner, concise, simple, effective, so perfect in substance and in form that time finds no omission to regret, no improvement to suggest.

"In 1773 she recommended committees of correspondence to bring about a closer union with the other colonies, the first step in the direction of that more perfect union which was afterwards formed and the manifold blessings of which we now enjoy.

"In 1774, when the British occupied Boston and her port was closed, Virginia sent cargoes of provisions to the relief of her suffering brethren. The house of burgesses adopted resolutions of sympathy and recommended that a general congress should be called in which all the colonies should meet to deliberate and take such action as the exigencies of the situation might seem to require. Those resolutions led to the first meeting of the Continental Congress, to which Virginia sent as her delegates Peyton Randolph, Richard Bland, Benjamin Harrison, Richard Henry Lee, Patrick Henry, Edmund Pendleton, and George Washington.

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“In 1775 she prepared the colony for the impending conflict, and in the same year the Congress of the United States, upon motion of John Adams, of Massachusetts, appointed George Washington commander-in-chief of the forces raised 243 or to be raised in defense of American liberty. The convention then declared the independence of Virginia and instructed the delegates in Congress to offer a resolution declaring that these united colonies are and of right ought to be free and independent States. The motion was made on the 7th of June, 1776, by Richard Henry Lee, the Cicero of the Revolution, and on the 4th of July the immortal document penned by Thomas Jefferson was adopted. The convention then proceeded to form a constitution, and I undertake to say that the Virginia Bill of Rights, penned by George Mason, a Virginian farmer in the woods of Fairfax, over yonder, is the most perfect summary of the rights of man and the principles of free government that has ever been furnished to mankind. One of its articles declares that no man or set of men is entitled to separate or exclusive emoluments or privileges except in consideration of public services rendered to the commonwealth, which not being descendible, neither ought the offices of magistrate, legislator, or judge to be hereditary.

“As has been well said—

Here is a volume of wit and wisdom for the study of the nations embodied in a single sentence, and expressed in the simplest language. If a deluge of despotism should pass over the world destroying all those institutions under which freedom is yet protected, sweeping into oblivion the last vestige of their existence among men, could this single sentence of George Mason be preserved it would be sufficient to rekindle the flame of liberty and revive the race of free men.

“But, Mr. Chairman, why should I recount the past glory of Virginia? The world knows it by heart. Your own country, sir, that magnificent country between the Ohio River and the Lakes, acquired in 1778, by George Rogers Clark, a native of Albemarle County, Va.—five States, and a part of your own carved out of it—was donated by Virginia in a spirit

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of unselfish, disinterested patriotism to allay the jealousies of some of her sisters, and to sustain the waning credit of the Government.

“I say why should I dwell longer upon her history?

“The world knows it by heart and there is none above it in the niche of fame.

It has been one blaze of glory without a single blot of shame.’

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“You will pardon me for this digression, for the occasion is suggestive, and as a Virginian I speak *con amore*. The American Union is in great part the creation of Virginia. It was her son whose heaven-born eloquence first kindled the fires of the Revolution and incited the people to resistance by the proclamation of the eternal truth that resistance to tyrants is obedience to God. It was her son who penned that immortal document which declares that whenever government becomes destructive of the ends for which it was created it is the right of the people to alter or abolish it and institute a new government, laying its foundations upon such principles and organizing its powers in such form as to them shall seem most likely to effect their safety and happiness. It was her son who was confessedly the father of the American Constitution, that wonderful instrument of wisdom and patriotism, pronounced by Mr. Gladstone to be the greatest work ever struck off at a given time by the brain and purpose of man. It was her son who presided over the Supreme Court from 1801 to 1835 and blazed the way for his successors in the interpretation of the Constitution. It was her son who stood by the helm of the ship of state on its first perilous voyage and is now by the universal acclaim of all mankind recognized as the greatest of good men and the best of great men, that illustrious son of whom the poet has beautifully sung—

“All discord ceases at his name, All ranks contend to swell his fame.’

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“Her sons administered the affairs of this Republic during thirty-two out of the first thirty-six years of its existence. Under Mr. Jefferson we acquired Louisiana. Under Mr. Monroe we acquired Florida, and to Mr. Monroe the country is indebted for that clear, explicit declaration of the immortal principle that European governments shall not be allowed to plant colonies or interfere with the growth of republican principles on this continent.

“Ancient of days, august Virginia, where are thy men of might, thy grand in soul? I feel that their immortal 245 spirits are hovering about this Capitol to-day, and as I speak to you I fancy I feel their presence near. If their voices could be heard I am sure they would be found exhorting you by all the memories of the past, by all the hopes of the future, exhorting you by every consideration of duty, of interest and of patriotism, not to turn a deaf ear to the cry of the old mother Commonwealth—a Macedonian cry which comes up to the Congress of the United States to come over and help her.

“But, Mr. Chairman, this celebration is not to be confined to Virginians. It is intended for the whole country, and it is not to be altogether historic or sentimental. It is intended to have a grand material exhibit where our sister States of the Union may bring their industrial products, and what an opportunity will be afforded to study the progress of the United States in the last 300 years; what an opportunity will be afforded to study the progress in agriculture, in commerce, in mining, in manufactures, in education, arts, and sciences, in everything that contributes to the greatness and the glory of the Republic!

“And, Mr. Chairman, as you have already heard, it is proposed to provide for a marine and naval exhibit, and to make the naval feature predominant. What an opportunity will be afforded to the young men of the country to study the history and the progress of the American Navy! The first legislation ever enacted in this country with reference to a navy was on the 13th of October, 1775, when the Continental Congress adopted a resolution creating a marine committee, and directing them to fit out two swift-sailing vessels, the one of 10 and the other of 14 guns, to cruise to the eastward and intercept the transports and supplies intended for the British army at Boston. Under that resolution two vessels were

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fitted out, the one called the *Lexington* and the other called the *Providence*. They were the first to unfurl the American flag and carry it to victory on the high seas. Subsequently a few small vessels were added, but I believe there were never more than 150 guns afloat at any one time during the Revolution. And yet it is a recorded fact that in a single year not less than 342 English vessels were captured by this little American Navy.

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“In connection with the early history of the Navy the names of Hopkins, Barron, Nicholson, Biddle, Barry, Whipple are some of the few immortal names that were not born to die. But there is one name that will shine resplendent as a bright particular star in the heavens as long as undaunted courage and lofty patriotism shall attract the admiration and receive the homage of mankind. I refer to the name of John Paul Jones, that paladin of the seas, who at the early age of 28 was commissioned a lieutenant in the American Navy. In command of the *Bon Homme Richard*, and accompanied by two other vessels, he made a cruise in 1779 in the waters of Great Britain, during which he captured and destroyed 25 ships of the enemy and carried consternation and dismay all along the coasts of England, Ireland, and Scotland. In all the annals of naval warfare there has been no grander spectacle of courage and heroism than that displayed by John Paul Jones in his death grapple at night with the English ship *Serapis*. After an hour's bloody work at close quarters and surrounded by darkness the English captain demanded to know of Jones, ‘Have you struck your colors?’ To which the heroic American promptly replied, ‘I have not yet begun to fight.’ These words will live in the memory of men as long as time shall last. They have made the name of John Paul Jones a household word in the land and have linked it with immortality.

“In the war of 1812, which was fought for the vindication of sailors' rights, the supremacy of Great Britain on the high seas was successfully disputed, and the American Navy emerged from the conflict covered with imperishable glory. Who can ever forget the names of Bainbridge, Decatur, Hull, Perry, Page, McDonough, Lawrence, whose dying words were, ‘Don't give up the ship’? During the recent war with Spain the American

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Navy not only sustained its well-earned reputation but won fresh laurels when in a single battle, under Admiral Dewey at Manila, it changed the map of the world, and when it sunk the ships of Cervera in the waters of Santiago under Admiral Schley, who had the magnanimity to declare, 'There is glory enough for us all.'

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"Some letters have been filed, and I beg leave to call attention to them. In the first place, permit me to say that this enterprise has been strongly recommended by the National Congress of the Sons of the American Revolution, at which there were representatives from 40 States, consisting of ex-members of Congress, ex-judges, ex-army and ex-navy officers, and many prominent and influential citizens. A resolution commending it to the support of the National and State Governments was unanimously adopted on a rising vote. It has been cordially indorsed by the District Society of the Sons of the American Revolution in this city, composed of 600 men, the most intelligent, perhaps, and influential—certainly as much so—as those of any other city. Many governors of the States have written strong letters of commendation, and I the here a letter from our accomplished Secretary of the Navy, Hon. W. H. Moody, strongly indorsing it. I the also a letter from President Roosevelt, whose prominent characteristics are his intense Americanism and ardent love of country, and who sees in this occasion a rare opportunity to strengthen the bonds of the American Union, to cultivate a broad catholic spirit of American patriotism, and to furnish an object lesson for the study and contemplation of the young men of the country.

"I file also a letter from ex-President Grover Cleveland, who has gone into history as one of the greatest Chief Magistrates who ever occupied the Executive chair. Also a letter from his eminence Cardinal Gibbons, not only beloved by his own people but by all Christian denominations in this country. And, sir, the voice of McKinley comes up from the grave at Canton to assure us of his sympathy and encouragement. A few hours before our martyred President—whose greatness was only equaled by his goodness—was stricken

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down by the cruel hand of a cowardly assassin he delivered an address at Buffalo, in the State of New York, in which he said:

Expositions are the timekeepers of progress. They record the world's advancement; they quicken the human genius; they stimulate the enterprise, industry, and intellect of the people; they enter into the daily homes; they broaden and brighten the daily life of the people. Every 248 exposition, great or small, has helped to some onward step. Comparison of ideas is educational and as such it instructs the brain and the hand of man. Friendly rivalry follows and thus is furnished a spur to useful improvement and an inspiration to high endeavor.

“Pardon me, Mr. Chairman, I must forbear. Permit me to say that when Louis Kossuth, the great Hungarian orator, came to this country to plead the cause of his downtrodden and oppressed people, he electrified his audiences everywhere and on one occasion, after a great speech, a gentleman arose and offered a resolution of sympathy. Then Kossuth rose and cried out, ‘Oh, friends, friends, what my afflicted, oppressed country needs is material aid and operative sympathy!’

“That is what the marine and naval exposition needs today. We want material aid, operative sympathy, and I have no doubt about the result. Why, to entertain a doubt would be to impeach the patriotism of the American Congress.

“The exhibition will be held, and it will be a great and grand and glorious success. The creations of American genius will be there; the products of American industry will be there; the American Navy will be there; the navies of the world will be there; the American Army will be there; our gallant citizen soldiery will be there; the Senate and the House of Representatives will be there; the Supreme Court will be there; the President and his Cabinet will be there; the foreign ambassadors and ministers will be there; the orator and the poet will be there; the Sons and Daughters of the American Revolution will be there; the American people will be there, and as they gather from the North and from

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the South, from the East and from the West, and look down the far-reaching slope of the three centuries that have gone and look forward with exulting pride in contemplation of the grandeur and glory of the Republic as it shall move forward over the bright track of progress and look out upon the flag of our common country, the proud ensign of the Republic, as it shall float over a people united, prosperous, free, they will exclaim with one heart and with one voice:

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“Float out, oh flag, and float on every sea; Float out, oh flag, and blaze in every clime; Float out, oh flag, and float till time and space themselves shall cease to be.’

“I thank you.” [Prolonged applause.]

Chapter XVII Commodore Matthew F. Maury—His true greatness—The great debt due to him by the General Government—Descent and birth—First voyage and beginning of his treatise on navigation—His marriage—Great services to science—“Physical Geography of the Sea”—Addresses before agricultural societies—Urged to take up his residence abroad after resigning from United States Navy—Goes to Mexico after the war—Return to his native State—His last request to his wife.

The greatest man in many respects whom I have ever met was the renowned Matthew F. Maury. It was my good fortune to meet him many years ago at the Yellow Sulphur Springs in Virginia, to sit at the same table with him, and to listen to the words of wisdom that fell from his lips. Like all other great men, he was as simple and unaffected as a little child. It is said that the records at the Navy Department at Washington contain an entry to the effect that he was dismissed from the service in 1861 on account of treason. If this be true, I submit, in view of his great services to the country and to mankind, the entry should not only be expunged, but the Congress of the United States should provide for the erection of a magnificent monument to his memory at the Rip-Raps in Hampton Roads, upon

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whose great possibilities he delighted so much to dwell. It may perhaps be of interest to the reader, and especially to the young men, to furnish a brief sketch of his eventful and wonderful career.

He was descended from a Huguenot family on the father's side, while his maternal ancestor, Mr. Minor, was an English gentleman, who received a grant of land in Virginia from King Charles II. He was born January 14, 1806, in Spottsylvania, that noble old county so rich in traditions and around which so many historic glories cluster. When he was in his fifth year, he emigrated with his father's family to the State of Tennessee, where he worked on a farm in the days 251 of his early boyhood, and received such elementary instruction as the Old Field schools in that new country could afford.

In 1825 he was appointed a midshipman in the Navy of the United States by Samuel Houston, then a member of Congress from Tennessee. His pay as midshipman was only twenty dollars per month, but he sent half of it regularly to a widowed sister.

His first voyage was in the frigate *Brandywine*, when she was sent to carry General Lafayette to France. Notwithstanding the discomforts and difficulties which he experienced in his narrow quarters, he determined to master the theory and practise of his profession. While pacing to and fro as a watch on the quarter-deck, he would chalk diagrams in spherical trigonometry on the round shot, and with no other text-book but an old Spanish work, he commenced his new treatise on navigation which he completed a few years later.

In 1831 he became engaged to his cousin Ann Herndon, and when about to sail on a voyage to the Pacific Ocean he gave her a little seal, only to be used in writing to him, with the simple inscription of "Mizpah"—"The Lord watch between thee and me when we are absent one from the other." After his return to the United States in 1834, he married his cousin, and paid to the clergyman, as his fee for performing the ceremony, the last ten dollars he had in the world. In this prosaic and unsentimental age, when the only object of life with most people seems to be to put money in the purse, it may be said by some that

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in entering into matrimony under such circumstances this young naval officer committed a very rash act. But I stand ready to maintain against all comers and goers that in this, as in every other act of life, he proved himself to be a wise man and a true philosopher. He could not possibly have made a better investment of the ten dollars. No greater blessing can be vouchsafed by a benignant Providence to any young man in the beginning of his career than a union of heart and hand with a pure-minded and lovely woman. The wisest of men has said, "The heart of her husband doth safely trust in 252 her, so that he shall have no need of spoil." "She will do him good and not evil all the days of her life." Certainly such was the experience of Matthew F. Maury, for forty years after his marriage, when in exile from his native land and a homeless wanderer, he wrote on the fly-leaf of his Bible the following, "To my wife: Dost remember Genesis 31st Chapter, 49th verse"; and on another leaf, "See 2d Samuel, 22d Chapter, 26th verse. Thy gentleness hath made me great, my Nannie."

In 1839 he began the publication in the *Southern Literary Messenger* of a series of articles which made such a profound impression upon his brother officers in the Navy that in 1842 he was placed in charge of the Depot of Charts and Instruments at Washington, an office which, by his learning, energy and industry, he developed into the well-known National Observatory and Hydrographical Department of the United States. It was there that he issued his wind and current charts, consisting of observations on the force and direction of the winds and the set of the currents of the sea, which proved to be of such inestimable benefit to navigation, and saved not less than fifty millions annually to the commerce of the world. It was then that he published his "Physical Geography of the Sea," a remarkable production, showing how he had explored the bottom of the great deep, made a map of its channels, and marked out a safe highway for the trade and commerce of the world. It was there that he inaugurated a Congress of the Chief Maritime Nations of the Earth, which was held at Brussels in 1853, for the development of meteorological research, and which was attended by the most scientific men of the world, who came to sit at his feet and learn of him. At the close of the Brussels Conference, he returned to the National

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Observatory at Washington in the enjoyment of a reputation coextensive with the limits of the globe, having been elected an honorary member of the most learned societies in Europe, and having received many medals and jeweled decorations from kings, emperors, and potentates. It is impossible for me to discuss fully on an occasion like this all the scientific discoveries and achievements of this great benefactor of his race; but I must 253 not omit to call attention briefly to his plan for meteorological co-operation on land as well as on the sea.

In 1855 he delivered addresses before many agricultural societies, in which he urged the farmers to make daily observations on temperature, the force and direction of the winds, and the condition of the crops, which were to be sent to him and digested into land charts, so that the farmers of the country might be warned of the approach of storms and frosts which would be injurious to their crops.

In 1857 he passed through the South and West delivering lectures and urging the people to memorialize Congress to establish a signal service system. It cannot be denied that his fertile and splendid genius conceived the idea of establishing the signal service system out of which has grown the "Weather Bureau" of the present day, so beneficial in its results to the agricultural interests of the country at large.

Before the sectional difficulties had culminated in civil war between the States, Captain Maury exerted all his great powers of persuasion to arrest the dreadful calamity; but when Mr. Lincoln issued his proclamation calling for seventy-five thousand troops to coerce the seceding States of the South, he promptly responded to the call of Virginia, resigned his commission in the Federal service, and went to Richmond, where he was appointed one of the Advisory Council of Three.

As soon as it became known in Europe that he had resigned his place in the United States Navy, he was urged in most gracious and generous terms by the Grand Duke Constantine of Russia, and the Emperor of France to make his home with them, away

from the distressing scenes of fratricidal strife, so that he might pursue in peace and tranquillity those philosophical labors so congenial to his tastes, and of such transcendent interest to the whole human race. But he had tendered his sword to his native State. Her soil, which contained the graves of his fathers, was threatened with invasion, and the enemy was at her gates. He could not turn his back upon her in that supreme moment of her destiny. Like the true man he was, he walked with head erect in the path of duty and of honor.

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Soon after his arrival at Richmond he addressed himself to the task of developing the efficiency of torpedo warfare. He invented an electric torpedo for harbor defense and proceeded to mine the James River below Richmond. The result was that the Federal fleet had such a wholesome dread of torpedoes that for a long time they kept at a very respectful distance.

In the summer of 1862 he was sent by the Confederate Government to England on an important mission. While there he assisted in organizing a society "to promote the cessation of hostilities in America," but its earnest and affectionate appeals were unheeded amid the tumult and roar of battle. The dreadful strife went on until the young Confederacy, without a blot upon its escutcheon, fell bleeding and prostrate, and its tattered banners were furled forever.

When Captain Maury received the sad intelligence, he went to Mexico and offered his services to the Emperor Maximilian. They were cordially accepted, and he was immediately appointed Director of the Imperial Observatory, and afterwards Commissioner of Immigration. But it had been decreed that the ill-fated Emperor Maximilian should not long continue to sit upon the throne of the Montezumas. He was betrayed by false friends, taken prisoner, and shot to death.

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His accomplished Empress, the beautiful Carlotta, was so overwhelmed with grief that she was bereft of her reason. Captain Maury was deeply afflicted by the sad fate of his friends and the consequent destruction of all his beneficent schemes for the regeneration of Mexico. He went to England, where he opened a school of instruction in torpedoes, and received adequate remuneration from the different governments whose officers he taught. He also occupied his time in the preparation of a series of geographical class books for the use of schools, in regard to which he wrote, "I could not wind up my career more usefully (and usefulness is both honor and glory) than by helping to shape the character and mould the destinies of the rising generation."

But notwithstanding the most distinguished honors were conferred upon him throughout Europe, in recognition of 255 his scientific and literary merits and of his eminent services to mankind, his heart yearned for his native land. He accepted the chair of physics at the Military Institute and returned to Old Virginia in August, 1868.

His house at Lexington not being ready for his occupation, he spent the winter in Richmond, and devoted his time to the preparation of his work on the "Material Wealth and Resources of Virginia."

In the spring of 1869 he was established in his house at Lexington, where he passed the last four years of his life in the bosom of his affectionate family, and surrounded by admiring friends. During that time he occupied himself, as one of his professional duties, in making a meteorological survey of his beloved Virginia, for the purpose of attracting special attention to her unrivaled material resources, and the exceptional advantages which she offered to those engaged in the pursuit of agriculture. His love for Virginia and her people remained unshaken, and one of the last acts of his life, as he lay suffering great bodily pain, was to dictate and revise the last edition of the "Physical Geography" of the State.

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On the 1st of February, 1873, he entered into rest with the firm faith of a Christian philosopher, and “in love and charity with the world.”

To the request of his wife that she might be allowed to bury him in Richmond, he replied, “Very well, my dear; then let my body remain here until the spring, and when you take me through the Goshen Pass, you must pluck the rhododendrons and the mountain ivy and lay them upon me.”

“Home, bear me home at last, he said, And lay me where your dead are lying: But not while skies are over-spread, And mournful wintry winds are sighing.

“Wait till the royal march of spring Carpets the mountain fastness over, Till chattering birds are on the wing, And buzzing bees are in the clover.

“Wait till the laurel bursts its buds, And creeping ivy flings its graces About the lichened rocks—and floods Of sunshine fill the shady places.

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“Then when the sky, the air, the grass, Sweet nature all, is glad and tender, Then bear me through the Goshen Pass, Amid the hush of May-day splendor.”

It was the crowning glory of his life that he was an earnest soldier of the Cross. He believed fully in the “harmony of science and revelation.” He felt that “they who go down to the sea in ships and occupy their business in great waters see the works of the Lord and his wonders in the deep.”

Chapter XVIII Washington City—History of its selection as seat of government—Its exceptional advantages and many attractions.

It has been said that members of Congress and others whose public duties call them as temporary sojourners to Washington are so much pleased with the city and its

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environment that they are always reluctant to leave and take up their permanent residence elsewhere.

It is certainly a most beautiful and attractive city. Let us briefly recall its early history and notice the unexampled advancement and improvement it has made.

Not long after the organization of the first Congress under the Constitution the question as to the selection of a permanent seat of government came up for consideration. Every student is familiar with the history of the struggle between the respective champions of the Delaware, the Susquehanna, and the Potomac. Finally, after a long and acrimonious debate, a bill was passed by both Houses of Congress and approved by the President on the 16th of July, 1790. That bill did not specify any particular place, but conferred upon the President the absolute power of selecting a site on the Potomac River for the seat of government. What an extraordinary power to be bestowed upon one man and what unlimited trust and confidence it implied.

As to the consummate wisdom and unfaltering fidelity with which that great power was exercised and that important trust discharged, there is now no difference of opinion whatever. It is universally conceded that the site selected as the home of the Government possesses extraordinary advantages, whether considered with reference to its geographical position, the salubrity of its climate, or the beauty of its surrounding scenery.

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What wonderful progress it has made since the year 1800! Then its population was less than 15,000, now it has reached 350,000. Then it was an unpromising village with shabby wooden tenements and unpaved, muddy streets, through which hogs and cattle roamed at will. Now it is a superb metropolis with splendid, palatial residences, magnificent parks, and broad, clean, well-paved streets and avenues. Then there were no street cars. Now

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the Capital City can boast not only of an excellent street car service but of a splendid system of electric railways reaching out in every direction.

As an educational center its advantages are exceptional. In addition to its excellent private and public schools, it has several great universities successfully engaged in the work of higher education. It has the Georgetown University, founded in 1789, one of the oldest educational institutions in the country, which points with maternal pride to a long line of illustrious alumni. It has the George Washington University with its sixteen hundred students and its various schools in every department of learning. It has the Catholic University of America, most liberally endowed, with its schools of Sacred Science, Philosophy, Letters, Physical Sciences, Technological Sciences, and Law. It has the Howard University with its departments of Theology, Law, Medicine, Preparatory, College, Dental, Normal, Industrial, and Music. It has the National University, of which the former distinguished Chief Justice of the District Court of Appeals is the Chancellor, with its Law, Dental and Medical departments. It has the Washington College of Law, in which women are instructed in the intricacies of that science by able and learned professors; and it has the Columbian Institution for the Deaf and Dumb, an institution that appeals most strongly to the tenderest sympathies of all who would alleviate the unhappy condition of those unfortunates. In this connection we must not overlook the American University, founded under the auspices of the Methodist Episcopal Church; nor the Protestant Episcopal Cathedral, with its magnificent site and great possibilities; nor the 259 National University, projected by Washington himself, to promote which eminent scholars and educators are now co-operating.

But it is not only in schools, colleges, and universities that a liberal and polite education is to be acquired. Washington has many other advantages and attractions for the student not to be found elsewhere. It has its galleries of art open and accessible to all. It has its Public Library, a most important adjunct of the public school system. It has also the

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Congressional Library, containing one million volumes collected in a building of surpassing beauty, of which it may be truly said that “none but itself can be its parallel.”

It has its literary, scientific, philosophical, legal, medical, musical, patriotic, benevolent, and religious societies. It has its morning and afternoon newspapers and the representatives of the great dailies published elsewhere. It has churches of all denominations, the Smithsonian Institution, and the Naval Observatory. It has many public buildings, and the Capitol building, pronounced by many competent judges to be unsurpassed by any in the world for architectural and artistic beauty. It has the Senate and House of Representatives, the Supreme Court of the District of Columbia, the District Court of Appeals, the Court of Claims, and last, though not least, the Supreme Court of the United States, that august tribunal at whose bar the greatest lawyers in the land appear. During my connection with this court as Solicitor-General I asked Mr. Justice Miller, that great man who so long dignified and adorned the bench by his genius and learning, how a lawyer should argue his case before that tribunal? He said, “We wish you in the first place to give a clear and succinct statement of the facts, then announce your propositions of law as applicable to those facts, and cite any pertinent authority bearing upon the questions involved; but for Heaven's sake, don't give us any rhetoric!” What a change has taken place since the days of Pinckney and Wirt. The style of argument in which those great lawyers and rhetoricians indulged would not be tolerated in this practical and utilitarian age.

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In the immediate vicinity of Washington are many resorts of surpassing beauty which are easily reached on the cars and steamboats, such as Arlington, the home of Lee; Chevy Chase, Glen Echo, Cabin John Bridge, Marshall Hall, River View—and Mount Vernon, the home and tomb of Washington, the illustrious commander-in-chief of the Continental armies, the first Chief Magistrate of the Republic, the foremost man that ever lived in all that was great and good, of whom the poet has beautifully sung:

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"Fame spread her wings and loud her trumpet blew. Great Washington is near, what praise his due, What title shall he have? She paused and said, 'Not one. His name alone strikes every title dead.'"

Mount Vernon is indeed the American Mecca with its hallowed shades, sacred relics, and its inspiring associations. There are the silent woods in which Washington was accustomed to roam. There are the beautiful fields and gardens he cultivated. There are the stately trees he planted. There is the modest mansion in which he dwelt with noblest simplicity. There is his sacred tomb to which his countrymen may always resort to gather fresh inspiration for the proper discharge of the important duties of citizenship. There is the historic Potomac he loved so well.

It is said that when the Lord Chief Justice of England visited this country many years ago he was escorted to Mount Vernon by a committee of lawyers of which William M. Evarts was chairman. While they were walking about the grounds Mr. Evarts happened to mention the tradition that on one occasion Washington had thrown a silver dollar across the Potomac at that point. When the Chief Justice expressed his incredulity Mr. Evarts said, "My Lord, you should remember that in that day a silver dollar would go much farther than in this." One night at a banquet at the Ebbitt House I heard Mr. Justice Brewer, in response to a toast, relate this anecdote, and after telling it he said with great effect, "Whatever may be thought of George Washington's throwing a silver dollar across the Potomac, he certainly threw a sovereign across the Atlantic."

Chapter XIX Conclusion—A parting word to our young men—Many kinds of leaders—The professions and what they offer to the young man—Every man owes a debt to his country—All wisdom not confined to old heads—Some notable examples of young men—The young man urged to take up the practical side of life—The triumph of the South over its obstacles since the war—The "New South's" debt to the "Old South"—No star of hope but the Star of Bethlehem.

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As a life-long Virginian, I trust I may be permitted to speak a parting word to our young men, who are the hope of the country and of the church. The Mother Commonwealth has a just claim upon the highest energies of their natures and the best affections of their hearts. The time will soon come when they will be called upon to take the places now occupied by their fathers and to discharge the delicate and responsible duties of citizenship. Whatever vocation in life they may adopt, they may rest assured that nothing can be accomplished without singleness of aim and purpose, or without labor—constant, persevering labor. If they have the gift of application, it will be worth more to them than genius. Are they moved by an honorable ambition to be recognized as leaders in their day and generation? Why not? In a country like ours, and under institutions such as we enjoy, every man has the right to aspire to leadership.

The world in every age has had its representatives who, by reason of their superior genius, character and attainments, have been recognized as leaders of men. There have been leaders in every department of life and in every avocation of mankind. There have been leaders in war and leaders in peace, leaders in the pulpit, leaders at the bar, leaders in the medical profession, leaders in journalism, leaders in the professor's chair, leaders in the field of invention and discovery, leaders in the arts and sciences, leaders in statesmanship, leaders in agriculture, commerce, mining and manufactures. Some men seem to be born leaders. Others are made leaders by circumstances. It has been well said, that "when the ages call, the heroes come." While it may be true that from some the sacred spark of genius that fits them for leadership has been withheld, they may yet acquire some measure of influence. They may become useful and honored citizens by doing their duty in that state of life to which it has pleased God to call them. They may be recognized in the community where they live as men of character, men of incorruptible integrity who would "feel a stain like a wound" and avoid dishonesty as they would shun the contact of death itself. "Whatever their hand findeth to do, let them do it with all their might."

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If they should feel moved by the Holy Spirit to enter the sacred ministry, and adopt the vocation of an “Ambassador of Christ,” they may rest assured that there is no office so worthy of all the noblest powers of their souls. If they should determine to adopt the vocation of a teacher and fill the chair of the professor, they may rest assured that they will have opened up before them an inviting field of extended usefulness and high distinction. If they should desire to enter the profession of the journalist, and “hold a chart” illimitable as the wind to blow on whom they please, they may rest assured there is no power in this country so potential as the newspaper press so long as the doctrines it teaches and the principles it inculcates are pure and upright. If they should prefer to enter the legal profession, they may take comfort from the reflection that there is no vocation that holds out brighter or more magnificent rewards, but they should remember also that the law is a jealous mistress and will not be content with any half-hearted allegiance from her votaries. If they should determine to enter the medical profession and to devote themselves to the healing art, while they may not attract so much of the public attention as the eloquent advocate who stands in the forum and pleads the cause of injured innocence or exposes fraud, falsehood, and wrong, they will wield a potential influence for good around the family fireside, and the poor sufferer languishing on a bed of sickness will listen for the familiar sound of their footsteps as for the approach of one who is able to comfort and relieve, if not to save. If they should cherish an ambition to be statesmen they should hold it to be an imperative duty to preserve those cardinal principles which lie at the foundation of our representative system of government.

The war between the States abolished slavery and destroyed the doctrine of secession, but it did not change the essential principles of the Government. It did not destroy the Federal character of the Republic. It did not convert a Government of well-defined and limited powers into a grand, consolidated despotism. It decided that the Union is to be indissoluble, but an “indissoluble Union of free and indestructible States.” Every man owes a duty to his country. It is the duty of every citizen to take an interest in the affairs of the Government. He has no right to remain away from the ward meeting or the primary and

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then complain that the best men have not been nominated for office. The obligations of patriotism require us to exert whatever influence we may possess in contributing to the moral elevation and improvement of the individual citizen. The public safety and the public honor depend upon the force of individual character.

“He is a freeman whom the truth makes free And all are slaves besides.”

What a happy day it will be in this country when none but men of character can command the public confidence and support, when every position of honor and of trust shall be filled by a representative man of incorruptible integrity who would avoid corruption in office as he would flee from “the pestilence that walketh in darkness and the destruction that wasteth at noon day.” If any young man should feel inclined to enter the field of politics, he may rest assured that no permanent success can ever be achieved by practising the low, cunning arts of the unscrupulous and selfish demagogue. He must move forward with head erect and unfaltering faith in the right; nor is it necessary for him to wait until the blood has chilled in his veins and his head is whitened with the frosts of many winters. The experience of mankind has shown that all wisdom is not confined to the old heads. 264 The younger Pitt, at the early age of 22, astonished Europe by his brilliant feats of statesmanship in the British Parliament. Charles Fox at 25 was the recognized leader of the Whig party in the House of Commons. Thomas Jefferson was elected to the Virginia House of Burgesses at the age of 25, became a member of the Continental Congress at the age of 32, and at the age of 33 wrote the Declaration of American Independence. Alexander Hamilton, his great rival, was distinguished as a speaker and writer at the age of 17, was a lieutenant-colonel in the Continental Army at 21, led a gallant charge at Yorktown when he was 24, took his seat in Congress at 25, and was Secretary of the Treasury at the age of 32. James Madison was a member of the first Constitutional Convention of Virginia at the age of 25, entered the Continental Congress at the age of 28, and at the age of 38 was called the Father of the Constitution. Patrick Henry, the forest-born Demosthenes, became famous at the age of 27 in maintaining the cause of the People against the Parsons at Hanover Court House, and at 29, in the

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Virginia House of Burgesses, made a speech in defense of the rights of the colonies that caused George III to tremble on his throne. Daniel Webster, the godlike Daniel, the great logician and matchless orator, whose reply to Hayne in the Senate of the United States was perhaps the greatest speech that has ever been delivered since the oration of Demosthenes on the crown, was a conspicuous member of Congress at the age of 31. Henry Clay, the great commoner and fearless tribune of the people, entered the Senate of the United States at the age of 29, and was afterwards elected Speaker of the House of Representatives at the age of 34. John C. Calhoun, the great political prophet, who foresaw and foretold the dangers that threatened the perpetuity of the Union, whose disquisitions upon constitutional government and free institutions attracted the admiration of political thinkers throughout the world, commenced his remarkable career in Congress at the age of 30. John Randolph of Roanoke, the most accomplished belle lettres scholar perhaps who ever sat in the House of Representatives, was so youthful in appearance when he first appeared to take the oath of office, that the Clerk of the House inquired of him if he were of the required age, to which he replied, in a manner peculiarly his own, "Go and ask my constituents."

But it is impossible that all our young men now coming upon the theater of active life should become preachers or teachers or journalists or lawyers or doctors or statesmen. The learned professions, so called, are already overcrowded in this country. There are already too many young men sitting idly in their offices, like "Patience on a monument smiling at grief." There are too many young lawyers without clients, too many young doctors without patients, too many young statesmen waiting anxiously to serve the dear people. Why should not our educated young men become practical agriculturalists, mechanics, manufacturers, machinists, miners, mineralogists, engineers, inventors and explorers? This is a practical and utilitarian age. The world moves and we must move with it. We must adapt ourselves to the conditions in which we are placed and respond to the requirements of the times in which we live. Instead of waiting for hardy, thrifty immigrants from the Northern States and from Europe to come in and possess the land, why should

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not our own educated young men address themselves to the task of developing the untold resources of the soil upon which they have been born and reared? Have the young Virginians of the present day sprung from a race of men and women who were mere drones, without energy and incapable of achieving any practical results? On the contrary, I affirm, without the fear of successful contradiction, that no people in any age of the world's history have ever exhibited greater recuperative energies or a loftier heroism than the people of Virginia and the South have exhibited since the termination of the war. In the face of adverse fortune and surrounded by difficulties physical, financial and political, they have displayed a real manhood which demonstrates conclusively that they have not degenerated and that there is "life in the old land yet." Nor have I any sympathy whatever with those who would exalt the "New South," as it is called, by detracting from the just fame of the Old South. The high qualities which distinguish the "New 266 B.B. South" have been inherited from the Old. They do not owe their existence to the infusion of any new elements from abroad. The conditions have changed and the circumstances are different, but the people of the Old South and the New are essentially the same. Let others do as they may, but as for me, I refuse to wear the badge of the "New South" if I am required to renounce the memory of those revered and honored names which have rendered the Old South illustrious forever.

If our young men will determine not to shrink from honest toil; if they will enter the contests of life with strong arms and stout hearts, and, above all, with incorruptible integrity, the result cannot be at all doubtful.

While I would not dare to invade the province of the minister, I feel constrained to declare that the great business of this life should be to make preparation for that which is to come, and that no young man should be ashamed of the Gospel of Christ. As a rule, the men who have made their impress for good upon the times in which they have lived have been Christian men. Even Ingersoll, who prostituted his great talents in an attempt to unsettle the faith of our people in those religious truths which they learned at the knees of pious mothers in the days of their childhood, felt reluctantly compelled to bear testimony to the

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truth. Standing over the dead body of a brother, whom he dearly loved, and looking down upon his pale face, he exclaimed in agony of spirit and bitterness of woe, "From the silent lips of the unreplying dead, we hear no voice; but in the night of death, hope sees a star and listening love can hear the rustling of a wing." There is no star of hope but the Star of Bethlehem.

LB S'31